

**Juvenile Case Decided by the
North Carolina Court of Appeals**
September 6, 2011
Termination of Parental Rights

Neglect ground for termination

- When respondent made progress in substance abuse treatment only when incarcerated or in a residential program, the evidence supported the finding of a reasonable probability of a repetition of neglect.

In re J.H.K., __ N.C. App. __, __ S.E.2d __ (September 6, 2011).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMi0yLnBkZg==>

Facts: The trial court terminated respondent's rights after adjudicating the neglect and dependency grounds. In an earlier appeal, the court of appeals reversed because the children's guardian ad litem was not present at the hearing. The supreme court reversed and remanded for consideration of other issues in the case, which are the subject of this opinion.

The children were adjudicated neglected and dependent based on the parents' substance abuse problems and the unsanitary and dangerous conditions in the home. At the time of the termination hearing the children had been in foster care for two and a half years. While they were in foster care, respondent father participated in a residential treatment program and later in a prison program while he was incarcerated for violating probation. When he left the treatment program and when he was released from prison he relapsed, stopped staying in touch with DSS, did not visit the children, and did not follow his case plan. At the time of the hearing respondent was incarcerated again, had completed the New Directions program, and was working on his substance abuse and other issues.

Held: Affirmed.

These and other findings supported the trial court's conclusion that the neglect ground existed. In addition, the trial court did not abuse its discretion in terminating respondent's rights.

Civil custody action – visitation rights of registered sex offender

Bobbitt v. Eizenga, __ N.C. App. __, __ S.E.2d __ (September 6, 2011).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xNTgwLTEucGRm>

Facts: The trial court dismissed plaintiff's action for visitation because he had been convicted of attempted statutory rape (resulting in the conception of the child) and was required to register as a sex offender.

Held: Reversed.

1. Provisions in G.S. 14-27.2, 14-27.3, and 50-13.1(a) for loss of parental rights applies only to persons convicted for first- or second-degree rape resulting in conception of the child, and does not apply to a conviction of attempted or actual statutory rape.
2. The fact that respondent was required to register as a sex offender did not affect his right to claim visitation with his child.

*Appellate court opinions can be found at <http://www.aoc.state.nc.us/www/public/html/opinions.htm>
Earlier case summaries can be found at <http://www.sog.unc.edu/node/513>*



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