

**A/N/D – TPR Published Opinions
North Carolina Court of Appeals
November 19, 2013**

Neglect / Abuse: Adjudication and Disposition; Notice/Objection; Permanent Plan; Visitation

- *A party may waive the statutorily required notice of a permanency planning hearing by participating in the hearing without objecting to the lack of notice.*
- *Visitation order must have minimum outline of specificity regarding time, place, and conditions.*

In Re J.P., ___ N.C.App. ___, ___ S.E. 2d ___ (November 19, 2013)

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMy8xMy0zNS0yLnBkZg==>

Facts: The parties entered into a consent adjudication order, and the court ordered a temporary concurrent permanent plan of reunification or custody/guardianship and scheduled a disposition hearing. At the disposition hearing, the court ceased reunification efforts; ordered a permanent plan of custody or guardianship; and ordered that DSS offer the father supervised visitation every other week and that visitation be reduced to once a month if the father missed visits without notice or acted inappropriately. Respondent parents appealed.

Procedural history: On June 4, 2013, the court of appeals published a decision affirming the adjudication and affirming in part and reversing in part the disposition. That decision was republished on August 6, 2013. A rehearing was granted by the court of appeals on August 9, 2013.

Held: Adjudication affirmed; disposition affirmed in part and reversed in part

- If it was error for the court to order a temporary permanent plan at adjudication, respondents showed no prejudice as a result and any error was corrected by the court's later order of permanent plan at disposition.
- Respondents waived the lack of notice required by G.S. 7B-907(a)* by participating in the disposition hearing after the court announced its intention to enter a permanent plan without objection.
- Findings were sufficient to support the cessation of reunification efforts, and the court related those findings to a conclusion of law that reunification efforts would be futile and inconsistent with the juvenile's safety and need for permanent home within a reasonable period of time.
- Visitation plan must contain a minimum outline, such as time, place and conditions of appropriate visitation plan; this portion of the disposition order reversed and remanded.

*G.S. 7B-907 has been repealed and replaced by G.S. 7B-906.1.

Termination of Parental Rights: Grounds and Best Interests of the Juvenile

- *If a petition for termination of parental rights alleges a specific statutory ground, an order of TPR based upon a different statutory ground may stand if the petition alleges facts sufficient to place the parent on notice that parental rights could be terminated on that other ground.*
- *The court's findings must support its conclusion that termination of parental rights is in the juvenile's best interests.*

In re T.J.F., ___ N.C. App., ___, ___ S.E. 2d ___ (November 19, 2013)

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMy8xMy03MDctMS5wZGY=>

Facts: Mother filed petition to terminate father's parental rights on the ground of neglect, and a TPR was ordered on the ground of willful abandonment. At disposition, the court concluded that TPR was in the best interests of the juvenile. Respondent father appeals.

Held: Affirmed

- Despite grounds of neglect, the petition sufficiently alleged facts, such as his failure to have contact with the child within the six months preceding the petition and his failure to pay for the cost and care of the child, to place the respondent father on notice that his parental rights may be terminated on the basis of abandonment.
- Based upon findings that the respondent father failed to maintain contact with his child, that the child had a close and loving relationship with her mother and maternal grandparents, and that the maternal grandparents desired to adopt the child, the court's conclusion that TPR was in the juvenile's best interests was not an abuse of discretion.
- Although the court found the juvenile would be entitled to financial benefits if adopted by her maternal grandparents, the additional findings that the respondent father failed to satisfy his parental obligations by withholding his presence, affection and support supported the court's conclusion that TPR was in the juvenile's best interests.

Appellate court opinions: <http://www.aoc.state.nc.us/www/public/html/opinions.htm>.

Earlier case summaries: <http://www.sog.unc.edu/node/513>.

Other juvenile law resources: <http://www.sog.unc.edu/node/1689>.



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