

Juvenile Case Law Update



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Abuse and Neglect S.C.R.

Mistakes for Court to Avoid

1. Failing to make independent findings
2. Misunderstanding nature of the proceeding
3. Insufficient notice before ordering permanent plan
4. Failing to address visitation



Abuse and Neglect: Disposition S.H.

An order placing a child in DSS custody must include a finding that the child

1. needs more adequate care or supervision or
2. needs placement.

per G.S. 7B-903



Abuse and Neglect: Disposition
D.L

Kinship Care

In re K.J.D.
(2010)



1. safe placement
2. "sanctioned" by court
3. power of attorney

Parental Status

Custody to non-parent requires finding / conclusion that parents

- are unfit or
- have acted inconsistently with constitutionally protected status.

However, the Constitutional argument cannot be made for the first time on appeal. *In re T.P.*



Joint Appeal of Two Orders
I.R.C.

1. findings for ceasing reunification efforts
2. order terminating parental rights
(G.S. 7B-1001)



Termination of Parental Rights
N.C. Supreme Court

Review Pending

- Accepting parent's waiver of right to counsel [*P.D.R.*]

Affirmed

- Jurisdiction if TPR filed while appeal pending [*M.I.W.*]



TPR: Verification
M.M.

- There is no requirement that attorney sign before social worker verifies.



TPR: UCCJEA Jurisdiction
J.A.P.

G.S. 50A-203 findings required if

- prior order in another state and
- a parent remains in that state



TPR: **GAL** for Child
J.L.H.

A Child's Advocate
In Court



- Required if answer or response is filed denying material allegations.
- Attorney advocate is not sufficient.

TPR: Neglect Ground
J.H.K.-2; C.G.R.

1. current neglect, or
2. prior neglect + likely repetition if child returned to parent



TPR: Multiple Grounds
C.I.M.

- only one ground is necessary
- best interest factors were properly considered

Best interest factors now require findings of fact.

- (1) juvenile's age
- (2) likelihood of adoption
- (3) whether tpr will help accomplish permanent plan
- (4) bond between juvenile and parent
- (5) quality of relationship between juvenile and proposed adoptive parent, guardian, or custodian
- (6) any relevant factor

Dismissal of TPR Petition
J.K.C.

1. Affirms trial court order that no ground was proved by clear and convincing evidence
2. Misstates dependency ground
3. Creates presumption based on putative father's name on birth certificate



TPR: Order after Remand
A.R.P.

1. Must be complete order
2. May not just supplement order that was reversed


