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## Abuse, Neglect, Dependency

### GAL for Respondent Parent

GAL participation; Minor parent; Fifth Amendment waiver

In re A.H.-G., \_\_\_\_ N.C. App. \_\_\_\_ (December 17, 2025)

**Held: Affirmed**

**Concur in part, dissent in part (Collins, J.)**

- Facts: Mother appeals adjudication and disposition orders concluding her infant abused and neglected based on nonaccidental injuries the child sustained and continuing custody with DSS. Mother is an unemancipated 16-year-old who is subject to a juvenile delinquency petition involving related felonies. Due to Mother's age, Mother was appointed a Rule 17 GAL prior to the first hearing on the need for continued nonsecure custody. Mother's GAL was present at the adjudication hearing. DSS called Mother to testify at the hearing and Mother's counsel objected, based on mother's minor status and GAL representation. Mother's GAL was not asked whether Mother should waive her Fifth Amendment right against self-incrimination. The trial court overruled the objection and explained to Mother her rights, including that she could refuse to answer any question that would be incriminating in the delinquency case. Mother acknowledged the court's explanation, did not ask any questions about her rights when given the opportunity, and subsequently testified for one hour, refusing to answer only one question based on her Fifth Amendment right. Mother argues the trial court committed reversible error by allowing Mother to decide whether to waive her Fifth Amendment right against self-incrimination while she was appointed a Rule 17 GAL.
- Appellate courts review a trial court's compliance with a statutory mandate de novo.
- G.S. 7B-602(b) requires appointment of a Rule 17 GAL to represent a minor parent who is not married or emancipated, whereby the GAL "stand[s] in the place of" the minor parent who is "presumed by law not to have the requisite capacity to handle their own affairs[.]" such that "[t]he presence and active participation of a GAL appointed according to the provisions of Rule 17 effectively removes any legal disability of the party . . ." Sl. Op. at 8, 10 (citations omitted). "While a Rule 17 GAL appointed to a minor parent 'divest[s] the parent of their fundamental right to conduct his or her litigation according to their own judgment and inclination' . . . a Rule 17 GAL's role is to act 'as a guardian of procedural due process for the parent, to assist in explaining and executing her rights . . . to the fullest extent feasible and to do all things necessary to secure a judgment favorable to such party,' which is dependent on the individual facts of the case[.]" Sl. Op. at 9 (citation omitted). Looking to guardianship under G.S. Chapter 35A as instructive for GALs who have a more limited scope and duration, the court of appeals states that to the extent possible a Rule 17 GAL should allow the minor parent to participate in all decisions which affect the minor parent.
- The trial court did not err by allowing Mother to determine whether to assert her Fifth Amendment right. The record shows Mother's GAL was present at the hearing, did not speak when the court gave Mother a statement of her rights, and was not asked whether Mother should waive her Fifth Amendment right. However, Mother's counsel objected, the trial court fully explained to Mother her right to remain silent, and Mother affirmatively acknowledged the explanation. During Mother's testimony, Mother asserted the right when she refused to answer one question relating to one of the child's injuries. Similar to *In re W.K.*, 376 N.C. 269 (2020), Mother has not shown on appeal what actions her Rule 17 GAL could have taken to secure a

decision more favorable beyond the actions of her attorney. Requiring the GAL to also object is “not a feasible step to act as guardian of Mother’s due process rights[.]” Sl. Op. at 14.

- The court of appeals noted that Mother’s GAL was appointed only by virtue of her age, that the record contained no indication that Mother lacked competency to understand the trial court’s explanation of her right to remain silent, and Mother exercised the right during her testimony. A Rule 17 GAL should preserve the opportunity for the incompetent person (here due to age of minority) to exercise rights that are within the understanding and judgment and allow “for the possibility of error to the same degree as is allowed to persons who are not incompetent.” Sl. Op. at 9 (quoting G.S. 35A-1201(a)(5)).
- Absent additional evidence such as an order defining the guidelines of the GAL’s appointment or record discussions between the GAL and Mother, the reviewing court “will not presume error from a silent record.” Sl. Op. at 16 (citation omitted).
- Dissent in part: The trial court erred by allowing Mother to waive her right to remain silent without the active participation of her appointed GAL. Appellate precedent requires active participation of a GAL in the proceedings such that the GAL rather than Mother must decide whether Mother will waive her constitutional rights. The record does not show that Mother’s Rule 17 GAL participated in any manner. The record does not indicate Mother’s GAL filed an answer or participated in the adjudication hearing, including not speaking when the trial court gave Mother a statement of her rights or when Mother was compelled to testify.

## Second Rule 17 GAL

In re K.R., \_\_\_ N.C. App. \_\_\_ (May 20, 2026)

### **Held: Affirmed**

- Facts: The newborn at issue was adjudicated neglected and dependent. Prior to the adjudication hearing, the trial court appointed a Rule 17 guardian ad litem (GAL) for Mother based on concerns for Mother’s incompetency. The trial court granted Mother’s motion to remove the Rule 17 GAL two weeks later. The trial court held another Rule 17 GAL hearing and appointed a second GAL. At the disposition hearing, the trial court allowed the second Rule 17 GAL to withdraw after Mother filed a civil suit and NC State Bar complaint against the second Rule 17 GAL. On appeal of the adjudication and disposition orders, Mother argues the trial court abused its discretion in appointing the second Rule 17 GAL.
- “A trial court’s decision concerning whether to appoint a parental guardian ad litem based on the parent’s incompetence is reviewed on appeal for abuse of discretion.” Sl. Op. at 14. It is the duty of the appellant to ensure the appellate record is in proper form and complete. If the record is silent on a particular point, the presumption on appeal is that the trial court acted properly.
- A Rule 17 guardian ad litem (GAL) may be appointed for a parent who is incompetent. The appointment of a GAL “divest[s] the parent of their fundamental right to conduct his or her litigation according to their own judgement and inclination.” Sl. Op. at 15 (citation omitted). Failure to provide due process before appointing a GAL is an abuse of discretion. A Rule 17 GAL and legal counsel serve two distinct roles. “[A] trial court should appoint a new Rule 17 GAL after the first has withdrawn, despite the respondent retaining independent counsel, if questions regarding the respondent’s competency remain.” Sl. Op. at 15.

- The trial court did not abuse its discretion by appointing a second Rule 17 GAL for Mother. The record on appeal does not include a transcript from the hearing resulting in the second appointment; Mother has not argued she did not receive notice; and the record shows the trial court conducted an independent inquiry and all parties had the opportunity to be heard. The order indicates the court resolved material conflicts in the evidence presented and made a reasoned decision based on its inquiry.

### Adjudicatory Hearing

Evidence Rule 803(6); Medical records; N.C. R. Civ. P. 45

In re K.R., \_\_\_ N.C. App. \_\_\_ (May 20, 2026)

#### **Held: Affirmed**

- Facts: At the neglect and dependency adjudication hearing, Mother moved to unseal hospital mental health records she had previously subpoenaed after DSS had rested its case. The trial court denied Mother's motion. Mother appeals, arguing the trial court erred, violated her constitutional rights, and that exclusion of the evidence was prejudicial.
- When a constitutional argument is not preserved for appeal, appellate courts review a trial court's ruling on the admissibility of evidence for an abuse of discretion.
- Rule 803(6) of the Rules of Evidence allows the admission of business records, including medical records, as an exception to the rule against the admission of hearsay evidence. Under Rule 45 of the Rules of Civil Procedure, "[c]opies of hospital medical records . . . shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial." Sl. Op. at 17, *quoting* N.C. R. Civ. P. 45(c)(2). The hospital records arrive at the clerks' office and are sealed to protect confidentiality. A party must make a motion to unseal hospital records before moving for their admission into evidence in order to notify the court of their delivery and initiate necessary review, redaction, and protected distribution. After a trial court grants a party's motion to unseal the records, the certified copies are then admissible without further certification or authentication unless otherwise objectionable.
- The trial court's denial of Mother's motion to unseal her medical records was not an abuse of discretion. Mother failed to raise a constitutional objection. Mother's first and only request to unseal the records came mid-trial, after DSS had rested its case at adjudication. It was not unreasonable for the trial court to exclude the evidence when no party had an opportunity to review or redact the records.

### Collateral estoppel; Conflict of interest

In re A.D.H., \_\_\_ N.C. \_\_\_ (December 12, 2025)

#### **Held: Reversed and Remanded (court of appeals)**

- Facts and procedural history: This action involves simultaneous proceedings of a civil custody dispute between Mother and Father and a juvenile action alleging the child at issue abused, neglected, and dependent. A report was made to Carteret County DSS based on statements the child made to classmates and her school counselor that Father sexually abused her. Carteret DSS referred the case to Craven County due to a conflict of interest given that Mother's aunt was a former Carteret DSS employee and had continued relationships with social workers at DSS. Craven DSS found the allegations unsubstantiated after a trauma screening and Child Medical Evaluation (CME). A second report was made based on the same allegations and resulted in

identical findings by Craven DSS. In the custody case, the trial court ultimately found that Father did not sexually abuse the child. The court entered a permanent child custody order (CCO) granting Father primary legal and physical custody because of concerns Mother was coaching the child. The order also included a provision that no one but the child's current therapist could discuss past sexual abuse allegations with the child. Craven DSS filed an interference petition after a third report was made by the child's school counselor to Carteret DSS, Carteret DSS interviewed the child and recommended another CME, and Father refused to subject the child to another CME, citing to the provisions of the CCO. The trial court dismissed the interference petition (IPO) with prejudice after finding that (1) counsel for DSS stated the investigation could be completed without the CME and (2) reiterating facts in the CCO. A fourth report was made where Carteret DSS again attempted to conduct an investigation and Father refused. The trial court then entered a temporary emergency custody order awarding Father emergency temporary custody of the child and restraining Mother from removing the child from Father's custody. Carteret DSS subsequently questioned the child at school and ultimately filed a juvenile petition based on statements the child made both before and after entry of the CCO and IPO. Before filing the petition, Carteret DSS attempted to refer the matter to Craven DSS due to the apparent conflict of interest but Craven DSS refused due to lack of substantiated evidence. The trial court ultimately dismissed the juvenile petition with prejudice based on the doctrine of collateral estoppel. DSS appealed. The court of appeals vacated and remanded the case after reviewing the differing evidentiary standards of the CCO, IPO and juvenile petitions, holding that the doctrine of collateral estoppel applied but that the more recent allegations made after entry of the CCO and IPO could not be estopped. Carteret DSS filed a petition for discretionary review of whether the doctrine of collateral estoppel applies to the CCO and IPO.

- "Whether a court is barred from hearing a specific issue under the doctrine of collateral estoppel is a question of law." Sl. Op. at 8. Questions of law are reviewed de novo.
- The doctrine of collateral estoppel "precludes relitigation of a fact, question, or right in issue." Sl. Op. at 9 (citation omitted). Appellate precedent has established the requirements for defensive-use collateral estoppel to include: "(1) a valid final judgment on the merits in a previous suit; (2) the later suit involves identical issues; (3) the issue was actually litigated in the prior suit and necessary to the judgment; (4) the issue was actually determined; and (5) the party to be collaterally estopped was a party or in privity with a party to the prior suit, who had a full and fair opportunity to litigate the issue in the earlier action." Sl. Op. at 12-13. Privity is a due process protection that has been generally defined by the NC Supreme Court as "a person so identified in interest with another that he represents the same legal right." Sl. Op. at 10 (citation omitted).
- The court of appeals erred in holding that Carteret DSS was a party or in privity with a party to the CCO and collaterally estopped from adjudicating the allegations in the juvenile petition based on the CCO. Mother and Father were the only parties to the child custody action. Neither county DSS intervened in the custody action. Although a DSS social worker was a witness and testified, that participation did not make DSS a party to the custody action. Further, Mother and Father's interests and legal rights are distinct from and do not represent the interests of DSS which are statutorily prescribed to include investigating claims of sexual abuse, assessing the child's circumstances, and removing the child from the home or providing protective services to the child.
- The court of appeals erred in concluding factual issues alleged in the juvenile petition were actually litigated and determined in the IPO such that Carteret DSS was collaterally estopped from adjudicating the allegations in the petition. Findings in the IPO were recitations of arguments made by Father's counsel regarding whether abuse had occurred. The trial court

failed to make “actually determined” findings of fact on the issue that would preclude the court from adjudicating the juvenile petition. Sl. Op. at 15

- The court observed the substantial conflict of interest Carteret DSS possesses in the case, deeming its continued participation in the matter “wholly inappropriate.” Sl. Op. at 6 n.2, 16. Findings include that Mother’s aunt previously worked at Carteret DSS with the social worker assigned to the case; Mother’s aunt was friends with the social worker on social media; and the social worker and other Carteret DSS employees were tagged in social media fundraising posts made by Mother’s aunt aimed at raising funds to pay for Mother’s legal fees related to the child custody action.

## Adjudication

Abuse; Nonaccidental injuries; Inference

In re A.H.-G., \_\_\_ N.C. App. \_\_\_ (December 17, 2025)

**Held: Affirmed**

**Concur in part, dissent in part (Collins, J.)**

- Facts: Father appeals adjudication and disposition orders concluding his infant is an abused juvenile and continuing custody with DSS. A report was first made to DSS when the three-month-old child was brought to a hospital and diagnosed with nonaccidental trauma including several rib fractures, a tibia fracture, and bruises on her chest and back which appeared to be three weeks old. Upon investigation, DSS learned of a history of domestic violence between Mother and Father. Mother, Father and the infant lived in the home of the maternal grandparents where weeks prior, maternal grandfather called the police after Father allegedly assaulted Mother while Father was holding the child. Prior to the medical examination Mother and Father denied the child had any injuries, and after the child’s diagnoses and findings were made, Mother and Father provided no further explanation as to the cause of the injuries other than offering the possibility of injury while the child was being passed around to guests at a recent party. Mother and Father signed a temporary safety placement (TSP) with the paternal grandmother where the parents were to have no unsupervised contact with the child. A follow-up exam ten days later found new injuries to the child including an unexplained subconjunctival hemorrhage in her eye and a new, unexplained fracture to another rib. Mother and Father entered into a second TSP with the paternal aunt where the parents were again to have no unsupervised contact with the child. Twenty days later a follow-up medical exam of the infant found new unexplained or poorly explained bruising to the child’s shoulder, thigh, and back. Mother and Father admitted to several visits with the child. The paternal aunt stated that the injuries occurred when the child slipped from her hands during a sink bath and that it was possible her one-year-old bit the infant. The paternal aunt also stated Mother’s visits were so frequent and long that there were brief periods when she could not supervise the visits. At this time, the maternal grandmother reported an incident that occurred prior to the child’s second medical exam where Mother and Father took the child to a bedroom alone in her home for thirty minutes, she heard a physical struggle, Father left to get the child medication, returned to the bedroom and locked the door. DSS ultimately filed the petition, obtained nonsecure custody, and the child was adjudicated abused and neglected. Father challenges the abuse adjudication and argues the trial court’s findings of fact do not support the inference that the respondent parents inflicted or allowed to be inflicted the child’s injuries.
- Appellate courts review an adjudication of abuse “to determine whether the findings of fact are supported by ‘clear and convincing evidence[,]’ and whether the trial court’s conclusions “are

properly supported by those findings of fact.” Sl. Op. at 16 (citation omitted). Unchallenged findings are binding on appeal. Conclusions of law are reviewed de novo. Father did not challenge any findings of fact on appeal and therefore they are binding.

- An abused juvenile is one whose parent “ ‘(a) inflicts or allows to be inflicted upon the juvenile serious physical injury by other than accidental means’ or ‘(b) creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means.’ ” Sl. Op. at 17, *citing* G.S. 7B-101(1). Appellate courts have upheld abuse adjudications where a child suffered unexplained, non-accidental injuries and “clear and convincing evidence supported the inference that the respondent-parents inflicted the child’s injuries or allowed them to be inflicted.” Sl. Op. at 17 (citation omitted). An adjudication of a child as abused does not concern the fault of the parent, only the status of the child. Trial courts have discretion in determining a child’s risk of harm based on the child’s age and living environment, and may look to the historical facts of the case when assessing the risk of future abuse in the case of young infants.
- The trial court’s findings support the conclusion that the child is an abused juvenile. The unchallenged findings show the infant suffered unexplained, non-accidental injuries on three occasions for which the child could not have self-inflicted and for which the court found Mother and Father’s explanations not credible (e.g. the child was injured by guests while being handled at a party, was dropped in a sink, or scratched herself). Despite the absence of evidence that Mother and Father were the child’s exclusive caretakers when the injuries occurred, the trial court’s extensive findings support the inference Mother and Father inflicted the injuries or allowed them to be inflicted and that Mother and Father created or allowed to be created a substantial risk of serious physical injury to the child.

Abuse; Neglect; Unexplained serious physical injury; Sibling

In re J.R.D.L.G., \_\_\_ N.C. App. \_\_\_ (March 4, 2026)

**Held: Affirmed**

**Dissent, Tyson, J.**

- Facts: The six-week old infant and older sibling lived with Mother, Father, and Maternal Grandmother (caretaker). The infant was born at home in a frank breech position (folded in half, buttocks first). At six-weeks, Mother and Father took the infant to the emergency room after the infant appeared fussier than normal and cried when lifting her leg. The infant was diagnosed with 16 fractures at various stages of healing, including both clavicles, several ribs, the proximal and distal tibia, distal femurs, and right mid-femur, as well as a subconjunctival hemorrhage of the eye and bruise on the right leg. The attending physician concluded the clavicle fractures could be attributed to the birth trauma but concluded the other fractures were highly specific for abuse or inflicted injury. The attending physician ruled out several bone disorders but could not rule out Ehlers-Danlos Syndrome (a disorder shared by both parents) due to the child’s age. Upon discharge, the infant and her sibling were temporarily placed with their paternal grandparents where Mother and Father were permitted to live so long as contact with the children was supervised. DSS filed petitions alleging the infant abused and neglected and the sibling neglected. During the proceedings, Mother and Father acknowledged that they and grandmother were the only caregivers to the child but denied intentionally or negligently inflicting the injuries, explaining the injuries were either from birth, treatment from other physicians since birth, and/or a genetic disorder. Both children were adjudicated neglected and the infant also as abused after the court weighed conflicting testimony and found Mother and Father’s medical expert not credible. Mother and Father challenge the adjudications arguing

several findings are unsupported by the evidence and that the findings do not support the conclusions of abuse and neglect.

- Appellate courts review an adjudication to determine whether the findings are supported by clear and convincing evidence and whether those findings support the conclusions of law. Conclusions of law are reviewed de novo.
- “An ‘[a]bused’ juvenile is one ‘whose parent, guardian, custodian or caretaker’ either ‘[i]nflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means.’ ” Sl. Op. at 5, *quoting* G.S. 7B-101(1)(a). An abuse adjudication can be supported where the child sustains unexplained, non-accidental injuries and there is no “pattern of abuse or the presence of risk factors.” Sl. Op. at 8. However, “there must be a[n evidentiary] bridge between [the child]’s unexplained injuries and the conclusion that Respondents inflicted the injury . . .” Sl. Op. at 9 (citation omitted).
- “A ‘neglected’ juvenile is one ‘whose parent, guardian, custodian, or caretaker’ engages in certain statutorily defined criteria, including failing to ‘provide proper care, supervision, or discipline’ or ‘[c]reat[ing] or allow[ing] to be created a living environment that is injurious to the juvenile’s welfare.” Sl. Op. at 5, *quoting* G.S. 7B-101(a), (e).
- Unchallenged findings support the trial court’s conclusions that the infant is an abused and neglected juvenile. Findings include that the child suffered serious physical injuries including numerous fractures in various stages of healing while in the sole care of Mother, Father and grandmother (caretaker); the injuries were consistent with non-accidental trauma; there were no indicators that the child had any medical conditions that could have caused the injuries; and that the child did not suffer any additional fractures during the 2.5 months she was in the temporary safety placement before the petition was filed. “[T]hese findings provide the necessary bridge between [the child]’s injuries and the trial court’s conclusions.” Sl. Op. at 8.
- Neglected sibling: The supreme court has held that “[w]hen a child is severely abused in the parents’ care, and the parents cannot provide any plausible explanation for how those injuries occurred or assure social workers that the abuse will not happen again, the trial court properly can find that there is an unacceptable risk of similar abuse to other children in that same home in the future[,]” supporting a conclusion of neglect. Sl. Op. at 11 (citation omitted).
- The trial court’s conclusion that the older child is a neglected juvenile is supported by the findings, including that the infant suffered 16 unexplained fractures while in the exclusive care of Mother, Father, and caretaker for which the trial court determined were the result of abuse. The trial court found the child lived and would continue to live in the home where his sibling had been abused and neglected and ultimately determined that there is an unacceptable risk of similar abuse to the older child in the future. The trial court made ultimate findings that Mother, Father and caretaker do not provide proper care, supervision or discipline and created or allowed a living environment injurious to the older child’s welfare.
- Dissent: Challenged findings are unsupported by the evidence and the conclusion that the child is an abused or neglected juvenile is not supported by the findings. Respondents presented conflicting evidence that the infant had been handled by many medical providers prior to admission to the ER and provided several possible medical explanations for the infant’s serious physical injuries. Respondents promptly and voluntarily sought treatment for their child. DSS did not meet its burden of proof to support the inference that the child was injured while in Respondents’ care. The findings do not support the conclusion the older child is a neglected juvenile. There is a five-year age difference between the infant that suffered serious physical harm while in the home and the child at issue and no evidence was presented or findings made that show Mother and Father had provided an unsafe environment for the older child over his

life. Mother and Father could not explain the sibling's serious injuries while in their care but provided possible medical explanations as well as several instances where they took the infant to medical providers prior to admission to the ER. Regarding the sibling, the trial court did not resolve directly conflicting evidence to make ultimate findings needed to support the court's conclusion the child was abused and neglected. The order should be remanded.

Neglect; Post-petition evidence; Mental health  
In re P.G., \_\_\_ N.C. App. \_\_\_ (March 18, 2026)

**Held: Affirmed**

- Facts: This case involves Mother's appeal of the neglect adjudication of her three children. The neglect adjudication was based on Mother's substance use while caring for the children, Mother's untreated mental health issues, and domestic violence between Mother and Father. Specific incidents included law enforcement involvement when Mother was irritated and confused and ripped a phone from Father's hands; Mother locking the social worker out of her home; and Mother being intoxicated while caring for the children. Additionally, after the petition was filed, Mother sent hundreds of offensive text messages to a social worker; had multiple attorneys withdraw; was escorted multiple times by law enforcement from Father's home with the children present; and was arrested for trespassing and resisting a public officer at the DSS office. The adjudicatory hearing was continued when the trial court observed Mother appearing 'passed out or asleep' and again when Mother failed to appear. The trial court ordered a mistrial after the first adjudicatory hearing and the children were adjudicated neglected at the subsequent adjudicatory hearing. At disposition, the court ordered custody to Father, terminated jurisdiction in the 7B action and transferred the case to Chapter 50. Mother appeals, arguing several findings in the adjudication order are unsupported because the evidence involved post-petition evidence and testimony from the first adjudicatory hearing that ended in a mistrial. Mother also argues the findings do not support the conclusion of neglect.
- The Rules of Evidence apply at adjudicatory hearings in juvenile proceedings. "Assuming an evidentiary objection is properly preserved, a party may argue on appeal that any findings supported solely by inadmissible evidence are infirm and cannot support the trial court's conclusions of law." Sl. Op. at 15 (citation omitted).
- Nine challenged findings related to Mother's mental health, including post-petition assessments and recommendations, Mother's lack of treatment, and Mother's erratic behavior in the presence of the children and the court are supported by the evidence. While the adjudicatory inquiry focuses on the status of the child at the time the juvenile petition is filed, "[c]onditions 'which pertain[] to mental illness . . . have been determined by [the Court of Appeals] to be fixed and ongoing circumstances so that post-petition evidence about them is allowed to be considered in a neglect adjudication.'" Sl. Op. at 18 (citation omitted). Relying on *In re A.J.*, 386 N.C. 409 (2024), evidence of Mother's extreme hostility and aggressive behavior directed to Father, DSS, and law enforcement, and her refusal to follow through on her case plan, relate to Mother's ongoing mental health conditions alleged in the neglect petition and were properly considered by the trial court. The consideration of post-petition evidence related to a fixed and ongoing circumstance alleged in the petition is the precedent of the court of appeals and has not been overturned by the NC Supreme Court.
- Mother did not properly preserve her challenge to the finding concerning domestic violence incidents in the presence of the children. On appeal Mother argues the finding was improperly

based on Mother's testimony from the prior adjudicatory hearing that resulted in a mistrial, but at the trial level, Mother argued that the statements were made after the petition was filed; Mother cannot 'swap horses' on appeal.

- Assuming preservation, the challenged finding is supported. Although a mistrial means there has been no trial, testimony from that prior hearing is not excluded as admissible evidence at the subsequent hearing. Mother's statements from the prior hearing are admissible as statements of a party opponent pursuant to Rule 801(d) even though a mistrial of that prior hearing was declared. Here, the statements were offered through social worker testimony and admission was proper.
- Portions of seven other challenged findings are supported by the evidence, including testimony of law enforcement, DSS, Father, and a witness to one of the reported incidents involving Mother's erratic behavior. A portion of one finding is disregarded to the extent it states the incident happened in the presence of all of the children as the record shows only one child was present at that particular incident. Other challenged findings were not reviewed because "they do not affect the conclusion." Sl. Op. at 24.
- Adjudication orders are reviewed to determine whether the adjudication is supported by adequate findings of fact which in turn are supported by clear and convincing evidence in the record. Conclusions of law are reviewed de novo.
- A neglected juvenile is one whose parent "[d]oes not provide proper care, supervision, or discipline" or "[c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." G.S. 7B101(15). Appellate courts have "additionally required that there be some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline in order to adjudicate a juvenile neglected." Sl. Op. at 25 (citation omitted). The trial court "need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home." Sl. Op. at 26 (citation omitted). Alcohol or substance use by the parent, exposure to acts of domestic violence and threatening behavior toward social workers and police officers, and mental health conditions of the parent can support an adjudication of neglect.
- The findings support the conclusion that the children are neglected juveniles. Supported findings show several instances of domestic violence between Mother and Father while the children were present. One of those incidents involved Mother trying to break into Father's home and grabbing two of the children and taking them behind the house before returning them to Father. Another incident involved Mother locking the social worker out of the home, drinking alcohol, and in the presence of the children, yelling obscenities at Father, law enforcement and the social worker. Further, numerous findings demonstrate Mother's refusal to engage in mental health treatment despite provider recommendations.

#### Neglect; Dependency

In re K.R., \_\_\_ N.C. App. \_\_\_ (May 20, 2026)

##### **Held: Affirmed**

- Facts: The child at issue experienced breathing problems after birth that necessitated hospitalization for two days. DSS was notified when Mother was insistent on leaving the hospital with the newborn against medical advice. Medical providers eventually convinced Mother to keep the child at the hospital for treatment. DSS interviewed Mother who reported that she was

facing eviction and suffered from depression and anxiety. DSS also noted Mother's paranoid behavior surrounding the hospital and their documentation. Mother secured a hotel room for the night but would not share specifics with DSS regarding the hotel or further housing plans. DSS filed a petition alleging the child was neglected and dependent based on concern's for Mother's mental health and ability to provide stable housing and care for the child. Mother entered a case plan with DSS that required her to obtain and maintain stable housing, complete a parenting psychological evaluation, complete a mental health assessment, and participate in needed therapy. Mother identified a friend as a possible placement for the child, but the friend declined. Mother continued to name the friend as the alternative care provider despite being notified that the friend had declined the placement. The newborn was adjudicated neglected and dependent, and Mother appealed both adjudications.

- Appellate courts review a neglect or dependency adjudication to determine whether the findings are supported by clear and convincing evidence and whether those findings support the conclusions of law. Conclusions of law are reviewed de novo.
- A neglected juvenile is one whose parent "does not provide proper care, supervision, or discipline; has abandoned the juvenile . . . ; has not provided or arranged for the provision of necessary medical or remedial care; or creates or allows to be created a living environment that is injurious to the juvenile's welfare." Sl. Op. at 8, *quoting* G.S. 7B-101(15) (cleaned up in original). "Only one basis is required for an adjudication of neglect." Sl. Op. at 8. Appellate courts have additionally required that there be "some physical, mental, or emotional impairment of the juvenile or a substantial risk of such impairment as a consequence of the failure to provide proper care, supervision, or discipline." Id. (citation omitted). In the case of newborns, "the decision of the trial court must of necessity be predictive in nature, as the trial court must assess whether there is a substantial risk of future abuse or neglect of a child based on the historical facts of the case." Id. (citation omitted). The trial court "need not wait for actual harm to occur to the child if there is a substantial risk of harm to the child in the home." Id. (citation omitted). There must be evidence that the child's environment resulted in harm or a substantial risk of harm for the trial court to support a determination the child resides in an injurious environment. A parent's inability to provide stable housing pursuant to a case plan can be considered in finding an injurious environment. A parent's unaddressed mental health issues can support an adjudication of neglect if there is a clear "causal connection between the mental illness and the incapacity to provide proper care[.]" Sl. Op. at 9 (citation omitted). Additionally, a parent's refusal to cooperate with DSS also shows a substantial risk of future harm that can support a conclusion that the juvenile is neglected.
- The trial court's conclusions that the child lacked proper care or supervision and was living in an injurious environment are supported by the findings and the evidence. The challenged findings are supported by clear and convincing evidence. Evidence shows that Mother was insistent on leaving the hospital with the newborn against medical advice and did not understand the risk associated with the newborn's breathing issues or need for additional treatment; Mother failed to complete mental health assessments and therapy as ordered in her case plan, revoked her consent for DSS to review her medical records, and DSS was concerned for Mother's ability to understand the newborn's needs, including feeding needs, and DSS's involvement; and Mother was facing eviction, had not shared her hotel location with DSS, and had not complied with her case plan to obtain stable housing. There was a substantial risk of harm to the child based on the

findings demonstrating Mother may disregard or fail to seek medical care, leave her mental health concerns unaddressed, and lack stable housing for the child. The findings do not support the conclusion that the child was neglected by abandonment.

- A dependent juvenile is one whose “parent, guardian or custodian is unable to provide for the juvenile’s care or supervision and lacks an appropriate alternative child care arrangement.” Sl. Op. at 13, *quoting* G.S. 7B-101(9). An adjudication of dependency cannot be supported if one parent is able to provide or arrange for adequate care and supervision of the child.
- The findings support the trial court’s conclusion that the newborn is a dependent juvenile. The findings show Mother was unable to provide proper care or supervision of the child, including her insistence on taking the child from the hospital against medical advice, unaddressed mental health concerns, and lack of secure housing. Further, unchallenged findings show Mother was not able to provide a viable alternative child care arrangement, including that Mother identified a friend who declined and Mother continued to identify the same friend despite notice that the friend had declined. Finally, no other parent was able to provide care to the child.

## Initial Disposition

Cease Reunification Efforts; Aggravated Circumstances; Findings; Waiver

In re R.L., \_\_\_ N.C. App. \_\_\_ (June 3, 2026)

**Held: Affirmed**

- Facts: Mom appeals an initial dispositional order relieving DSS of reunification efforts based on aggravating circumstances of chronic physical abuse. The 3 month old infant experienced multiple different injuries . The court held an adjudication hearing immediately followed by a judicial review of placement on the RIL. A combined initial dispositional and permanency planning hearing was held at a later date. There, the court determined aggravated circumstances existed as the . Mother appeals arguing that the court erred in taking judicial notice of the RIL orders when determining an aggravating factor existed and
- Mother waived the issue of the court’s taking judicial notice of the RIL orders for determining whether an aggravating factor existed to relieve DSS of making reasonable efforts at initial disposition. DSS requested the court take judicial notice of the RIL orders and the trial court responded it would do so. Neither mother nor father objected to the court taking judicial notice of those orders. Based on *In re L.N.H.*, 382 N.C. 536 (2022), mother waived appellate review by not objecting.
- The court may relieve DSS of making reasonable efforts for reunification at initial disposition if it makes a writing finding of an aggravating factor, which includes chronic physical abuse or any other act, practice, or conduct that increased the enormity or added to the injurious consequences of the abuse or neglect. G.S. 7B-901(c)(1)b., f. The standard of review is whether there is competent evidence to support the findings and whether the findings support the conclusion. Dispositional choices are reviewed for an abuse of discretion.
- Some challenged findings of fact are based on reasonable inferences made by the evidence, credibility determinations, and the weight of the evidence, all of which are within the purview of the trial court. Other challenged findings are supported by the evidence.

- Chronic abuse may consist of two incidents based on appellate precedent. Although the trial court took judicial notice of the definition of “chronic” that mother admitted in evidence, it was not bound to apply that definition. Even if it had applied that definition, unchallenged findings supported the chronic abuse finding.
- Although a finding recited evidence, the court was identifying the source of evidence and made it clear that it resolved the factual issue when it found the child was chronically abused.
- Relying on *In re L.N.H.*, DSS does not have to argue for a particular G.S. 7B-901(c) basis to relieve it of making reunification efforts. “If the evidence supports findings under any subsection of Section 7B-901, the court may make those findings and reach the conclusion of law to cease reunification efforts based on that factor.” Sl. Op. at 17. Although DSS argued for the court to make a G.S. 7B-901(c)(1)f. factor, the court did not err by making findings of a G.S. 7B-901(c)(1)b. factor.
- Aggravating circumstances under G.S. 7B-901(c) are findings of fact and not conclusions of law. They must be supported by the evidence. “A conclusion of law is reached ‘by an application of fixed rules and law.’ ” Sl.Op. at 21. The conclusion of law is reasonable efforts for reunification are not required.

## Visitation

### No contact

In re M.B., \_\_\_ N.C. App. \_\_\_ (February 18, 2026)

#### **Held: Affirmed**

- Facts: The child at issue was adjudicated neglected and dependent due to concerns for Mother’s mental health, parenting skills, and substance use. The child was removed from Mother and visitation was ordered. During permanency planning and based on Mother’s threatening, abusive, and erratic behavior, Mother was ordered to not have contact with the child. Mother appeals the permanency planning order, arguing the trial court abused its discretion in ordering no visitation.
- Dispositional orders, including visitation, are reviewed for abuse of discretion and will only be overturned “upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision.” Sl. Op. at 8. Unchallenged findings are binding on appeal. Mother does not challenge any findings of fact in the PPO.
- The trial court did not abuse its discretion when ordering Mother not to have contact with the child. The unchallenged findings show Mother’s behavior during visitation made the child uncomfortable and caused the social worker to end at least one visit 30 minutes early. This behavior included Mother being visibly agitated during visits, screaming at the child that Mother and the child’s life were in danger, recording visitation, and on one occasion, appearing confused how to exit the building. The findings also detail Mother’s history of verbal abuse, profanity, and threats of violence directed at social workers through text messages and social media, which at times were in the presence of the child and were found to have negative effects on the child. Findings also show Mother texted social workers where she appears to have been suicidal or at least threatened to commit suicide. The trial court also found Mother’s behavior at the permanency planning hearing to be erratic and that Mother stormed out of the courtroom twice. Based on the findings, the trial court determined Mother’s mental health and substance use concerns had not been resolved and contact between the child and Mother were not in the child’s best interests. The court of appeals distinguished these facts from *In re J.C.-B.*, 276 N.C.

App. 180 (2021), where the no-contact disposition was vacated because the trial court left the disposition to the discretion of the child's therapist. Here, the trial court exercised its own discretion in making the dispositional decision.

#### Improper Delegation

In re A.C., \_\_\_ N.C. App. \_\_\_ (April 1, 2026)

**Held: Vacated and Remanded**

**Concur in part and dissent in part, Tyson, J.**

- Facts: In September 2024, the child at issue was adjudicated neglected. In May 2025, a permanency planning order eliminated reunification with Mother, concluded Mother waived her paramount constitutional rights as a parent, awarded custody to the child's paternal uncle, ordered weekly visitation with Mother at a time and location at the uncle's discretion, and terminated jurisdiction. Two days later, the district court entered a custody order to the same effect. Mother appeals the permanency planning and custody orders. One of mother's arguments is that the trial court improperly delegated the court's authority to determine visitation.
- Appellate precedent holds that "the award of visitation rights is a judicial function which may not be delegated to the custodial parent[.]" Sl. Op. at 17 (citation omitted). Visitation orders which partially delegate discretion have been reversed by appellate courts "where the circumstances may permit an adverse party to prejudice the visitation rights of the appellant." Sl. Op. at 17 (citation omitted). The trial court improperly delegated its authority to determine Mother's visitation with the child. Ordering discretion to the uncle as to the time and location of visitation "trivializes [Mother]'s visitation rights" as "misconduct could occur under the terms of the current order's visitation scheme." Sl. Op. at 18. Although bad faith by the custodian is perhaps unlikely, the trial court must safeguard mother's ability to exercise her visitation. The visitation portion of the PPO is vacated and remanded.

#### Improper delegation; Ch 50 order via 7B-911

In re S.H., \_\_\_ N.C. App. \_\_\_ (March 18, 2026)

**Held: Affirmed**

**Dissent in part, Collins, J.**

- Facts: The three children at issue were adjudicated neglected. The trial court ultimately entered a permanency planning order granting sole legal and physical custody of the children to Father. Mother was awarded secondary physical custody with visitation every other weekend and additional periods as mutually agreed to by the parties. The trial court terminated jurisdiction in the juvenile proceeding and a Chapter 50 custody order was entered to the same effect. Mother appeals, arguing the visitation order is not supported by the findings, is contrary to the children's best interests, and improperly delegates its authority to order visitation to Father.
- Civil orders regarding visitation are reviewed for an abuse of discretion.
- G.S. 50-13.2(b) requires custody orders to include terms, including visitation, that "will best promote the interest and welfare of the child." Sl. Op. at 9. The trial court has broad discretion in ordering visitation but its determination must be supported by findings of fact and evidence. Appellate precedent holds that a custody order which delegates visitation by a parent entirely to the discretion of the child's custodian constitutes per se abuse of discretion.
- The trial court did not abuse its discretion or improperly delegate its judicial authority in the visitation order. The visitation order provided specific, regular visitation periods (Friday at 6 PM to Sundays at 6 PM every other weekend) with supplemental visitation permitted at the

discretion and coordination of the parties. The order did not wholly delegate visitation to the discretion of the primary custodian. The order reflected a balancing of interests and reasoned exercise of discretion as to the best interest determination “naturally predicate to its findings of fact and other conclusions of law.” Sl. Op. at 12.

- Dissent in part: The permanency planning order should be vacated as to visitation and remanded for the trial court to revise the visitation schedule to address holidays or for further findings to support the schedule ordered. The transcript shows confusion as to whether the visitation schedule announced at the conclusion of the permanency planning hearing was to be reviewed within a few months at a hearing under G.S. Chapter 7B versus a permanent visitation schedule under a Ch. 50 order that requires a substantial change in circumstances.

## Permanency Planning

Continuance; Absent parent; Judicial knowledge of prior proceedings

In re L.M., \_\_\_ N.C. App. \_\_\_ (November 19, 2025)

### **Held: Affirmed**

- Facts: Mother appeals a permanency planning order (PPO) eliminating reunification as a permanent plan for six of her seven children when the court denied her motion to continue based on her absence. The six older children were adjudicated abused, neglected, and/or dependent at various times. Mother was present at each adjudication hearing and subsequent dispositional hearings for the six older children except for one permanency planning hearing. DSS obtained nonsecure custody of Mother’s seventh, youngest child and Mother did not appear at the nonsecure custody hearings. Mother also missed subsequent hearings for all seven children. The trial court scheduled for the same day the adjudication and disposition hearings for the youngest child, the permanency planning hearings for the six older children, and a contempt hearing for Mother. Mother received fifteen days’ notice of the hearing and its purpose. Mother did not appear but communicated with her counsel that morning that she did not have a ride. Mother’s counsel motioned to continue based on Mother’s absence. The trial court denied the motion, citing to Mother regularly not appearing in the proceedings and her noncompliance with orders. The hearing proceeded, and Mother’s counsel had the opportunity to participate in the hearing. Mother argues the trial court abused its discretion in denying her motion to continue and relying on unsupported assumptions regarding her attendance during the life of her children’s cases.
- Denial of a motion to continue that does not assert a constitutional basis is reviewed for abuse of discretion. Denial may be grounds for a new trial only if the respondent can show the trial court erred and that error was prejudicial. The trial court must consider all facts in evidence and may not “act on its own mental impression or facts outside of the record” in making its conclusions; however, the trial court may “take into consideration facts within its judicial knowledge.” Sl. Op. at 9 (citation omitted). Appellate precedent holds that a parent’s absence at a dispositional hearing is not per se prejudicial.
- G.S. 7B-803 governs continuances in abuse, neglect, and dependency proceedings. Continuances may be granted “only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile.” G.S. 7B-803. Extraordinary circumstances involve “[a] highly unusual set of facts that are not commonly associated with a particular thing or event.” Sl. Op. at 7 (citation omitted). Continuances are disfavored and the burden of showing sufficient grounds is on the party seeking the continuance.

- The trial court did not abuse its discretion in denying Mother's motion to continue. The trial court's denial based on Mother's regular absence in the proceedings was premised on judicial knowledge rather than mental impression. The trial court had presided over six hearings regarding Mother's seven children for which she had not appeared, had previously granted continuances in the case when Mother was in the hospital or incarcerated, and regularly received court reports from DSS and the children's GAL that included the children's status and case history. Mother offered no further reasoning other than her absence to support the motion to continue for extraordinary circumstances. Citing *In re L.G.*, 274 N.C. App. 292 (2020) and the purpose of permanency planning hearings stated in G.S. 7B-906.1(g) and (i), the court of appeals noted that denial of the motion advanced justice for the children in identifying permanency plans for the children whose cases had been active from between three and six years at the time of the hearing. Further, assuming error, Mother did not demonstrate she was prejudiced. Her absence alone does not amount to prejudice and she waived her constitutional arguments by failing to preserve the issues.

#### Gag order prohibiting social media posts about case

[In re M.B.](#), \_\_\_ N.C. App. \_\_\_ (February 18, 2026)

**Held: Affirmed**

- **Facts:** Mother's child was adjudicated neglected and dependent due to concerns for Mother's mental health, parenting skills, and substance use. During permanency planning, Mother was ordered not to discuss the case or people involved with the case on social media. Mother appeals the permanency planning order, challenging the provision as exceeding the trial court's dispositional authority and a violation of her constitutional rights.
- Dispositional orders, including all dispositional choices, are reviewed for an abuse of discretion and will only be overturned "upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." Sl. Op. at 8.
- G.S. 7B-904(d1)(3) grants the trial court dispositional authority to order a parent to "[t]ake appropriate steps to remedy conditions in the home that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile to the parent." Though broad, the court of appeals has noted this authority is not unlimited, stating "there must be a nexus between the step ordered by the court and a condition that is found or alleged to have led to or contributed to the adjudication." Sl. Op. at 12 (citation omitted).
- The trial court did not abuse its discretion in ordering Mother not to discuss the case or individuals involved in the matter on social media. A nexus exists between Mother's behaviors during the case and the trial court's limitation. The child was adjudicated and removed from Mother's care based on Mother's need to address her mental health, parenting skills, and substance use. The unchallenged findings in the PPO include the same types of behavior that contributed to the child's adjudication, including Mother's pattern of abusive and threatening social media posts. Findings showed Mother's posts threatened suicide, claimed child abuse by DSS employees, and threatened specific social workers and other involved in the case. Based on these findings, the trial court concluded Mother's social media activity could discourage DSS employees and others from working with the child and directly harm the child if the child were to see the publicly available posts. The trial court concluded Mother's continued discussion of the case and those involved on social media was not in the child's best interests. The gag order was limited to mother's discussion on social media of matters and individuals involved with the

case and was not a prohibition on mother's use of social media generally or from her speaking to others about the case.

- Mother failed to make a constitutional argument to the trial court and therefore failed to preserve her constitutional argument for appeal.

### Eliminate Reunification

In re N.M.W., \_\_\_ N.C. \_\_\_ (March 20, 2026)

**Held: Reversed (Court of Appeals)**

**Concurrence, Berger, J.**

- Facts and procedural history: This case arises on petition of the guardian ad litem for the child and DSS for discretionary review of the decision of the court of appeals as to Respondent-Mother. See [299 N.C. App. 20 \(2025\)](#). The two siblings at issue were separately adjudicated neglected and dependent based on domestic violence, mental health, and housing concerns. In each child's proceeding, custody was continued with DSS and the court adopted primary and secondary plans of reunification and adoption. The parents made progress on their case plans such that the children were in a trial home placement. The trial home placement was ultimately suspended along with visitation due to new domestic violence incidents and an eviction after live marijuana plants were found. The children's primary plans were subsequently changed to adoption with secondary plans of reunification, and DSS filed to terminate both parents' parental rights. The court eliminated reunification and ceased reunification efforts at a later permanency planning hearing, and Mother preserved her right to appeal the PPO. Mother's rights were terminated as to both children, and Mother appealed the PPO and TPR orders. The court of appeals vacated the orders as to Mother, holding the trial court failed to make the statutory findings to eliminate reunification, including findings under G.S. 7B-906.2(d) that demonstrate the degree of success or failure toward reunification, whether Mother remained available to DSS and the GAL, whether Mother was acting inconsistent with her parental rights, and whether Mother was acting inconsistent with the health or safety of the juvenile. (Father appealed the TPR order which was affirmed by the court of appeals and not considered by the supreme court in their decision).
- G.S. 7B-906.2(d) requires the court make written findings at each permanency planning hearing of factors "which shall demonstrate the degree of success or failure toward reunification." "[O]nly those factors which demonstrate the degree of success or failure toward reunification require written findings." 299 N.C. App. at 28 (court of appeals majority opinion), citing *In re L.L.*, 386 N.C. 706, 716 (2024). G.S. 7B-906.2(d) factors include whether the parent is (1) making reasonable progress on their case plan; (2) actively participating and cooperating with DSS and the GAL; (3) available to the court, DSS and the GAL; and (4) their actions are inconsistent with the health or safety of the child.
- The supreme court reversed the court of appeals for the reasons stated in the concurring in part and dissenting in part opinion, holding the trial court's findings of fact in the PPO are sufficient to satisfy the requirements of G.S. 7B-906.2(d) under *In re L.L.*, 386 N.C. 706 (2024). See *Concurrence in part and dissent in part*, Stroud, J., 299 N.C. App. at 29-35, [summarized here](#). In its opinion, the supreme court "remind[ed] the Court of Appeals that it is bound to apply properly the precedent of [the Supreme Court]." Sl. Op. at 1-2. The court of appeals dissenting opinion pointed to supreme court precedent that states "incomplete findings of fact in the cease reunification order may be cured by findings of fact in the termination order." 299 N.C.

App. at 30. The trial court's detailed findings in the PPO and TPR order taken together show that the trial court properly considered all of the factors required under G.S. 7B-906.2 to support a conclusion to cease reunification efforts with Mother. The supreme court has continuously held that findings are not required to track the statutory language verbatim. Findings in the PPO and TPR orders addressed Mother's availability to DSS, the GAL, and the court throughout the case; Mother's engagement in services over the years; that Mother had prior involvement with DSS in two other states to address the same recurring domestic violence and mental health concerns; and Mother had failed to demonstrate any benefit from the near continuous services provided over the life of the case.

- The supreme court additionally held the dissent in part's discussion of remand as the proper remedy was unnecessary given the conclusion that the trial court's findings sufficiently supported the order.
- Concurring, Berger, J.: There is a possible need for the supreme court to revisit *In re Civil Penalty*, 324 N.C. 373 (1989), which "solidified the principle of horizontal stare decisis for the Court of Appeals decisions[,] and instead "consider whether decisions of the court of appeals should be persuasive authority unless that court sits en banc [pursuant to Rule 31.1]." Sl. Op. at 4. Citing to *In re L.L.*, 386 N.C. 706 and *In re L.R.L.B.*, 377 N.C. 311 (2021) as examples, the court of appeals has published opinions directly conflicting with supreme court precedent, causing practicing attorneys and lower courts to apply the law contrary to what has been established by the supreme court pursuant to N.C. Const. art IV, sec. 12. Horizontal stare decisis has relegated "[t]he resolution of important issues of first impression . . . to the luck of the three-judge-panel draw . . . [allowing] first-in-time decisions [to] set a baseline from which future panels cannot deviate." Sl. Op. at 5.

[In re J.E.S.](#), \_\_\_ N.C. App. \_\_\_ (June 3, 2026)

**Held: Affirmed**

- Facts: Mother appeals a permanency planning order that eliminated reunification with her and a termination of her parental rights to the three youngest of her eight children. Regarding her other 5 children, mother's rights to 4 of them were previously terminated and one child died from nonaccidental injuries of which mother was convicted for felony aggravated battery. The three children in the current A/N/D and TPR actions were adjudicated based on circumstances created by mother's mental health, personality disorders, borderline intellectual functioning, housing, use of marijuana, and failure to provide proper care and supervision, including a lack of vaccinations and well-child checkups for the twins who were born prematurely. There was a car accident where mother was driving with all three young children without appropriate seats resulting in two of the children suffering traumatic brain injuries and skull fractures, and one child having hypothermia due to inappropriate clothing in the cold weather. Through her case plan, mother engaged in therapy, completed a parenting class, worked with a parenting aide, was employed, and obtained independent housing but did not address medication management and the need for it through a psychiatric evaluation and was unable to show an understanding of the children's reasons for care and how to appropriately supervise the children. Ultimately a primary permanent plan of adoption and a secondary plan of reunification with father was ordered. Reunification with mother was eliminated.

- Eliminating reunification: The standard of review is whether the findings are based on credible evidence and support the conclusions of law and whether the court abused its discretion when determining the disposition. Reunification must be a permanent plan unless the court makes findings required by G.S. 7B-906.2(b) and (d).
- Challenged findings are supported by the evidence including (i) a psychological and parenting capacity evaluations addressing mother's inability to demonstrate insight, (ii) her extensive child protective history, (iii) a social worker's testimony about mother's inconsistent mood regulation and parenting skills, and (iv) mother's failure to engage in medication management. The findings support the conclusion.

Eliminate reunification; Waiver of constitutional rights; Custody; Verification

In re A.C., \_\_\_ N.C. App. \_\_\_ (April 1, 2026)

**Held: Vacated and Remanded**

**Concur in part and dissent in part, Tyson, J.**

- Facts: In September 2024, the child at issue was adjudicated neglected based on the death of the child's older brother from hyperthermia and dehydration. In January 2025 at disposition, custody was awarded to the child's paternal grandparents with weekly visitation to Mother and Father. Mother and Father subsequently separated, and Father faced a felony charge related to the sibling's death. The trial court ordered reunification as the child's primary permanent plan and Mother was assigned a case plan. In May 2025, a permanency planning order eliminated reunification with Mother, concluded Mother waived her paramount constitutional rights as a parent, awarded custody to the child's paternal uncle, ordered weekly visitation with Mother at a time and location at the uncle's discretion, and terminated jurisdiction. Two days later, the district court entered a custody order to the same effect. Mother appeals the permanency planning and custody orders. Mother argues that the trial court erred in determining Mother waived her constitutional rights; abused its discretion in eliminating reunification; erred in awarding custody of the child to the uncle and failed to satisfy statutory verification requirements; and improperly delegated the court's authority to determine visitation. The visitation issue is summarized separately.
- Appellate courts "review a conclusion that the natural parent's conduct was inconsistent with her constitutionally protected right de novo, and, if challenged, determine whether the findings of fact supporting that conclusion are supported by clear and convincing evidence." Sl. Op. at 7 (citation omitted). A parent waives their constitutionally protected right to the control of their child when a trial court finds the parent unfit or that the parent's conduct is inconsistent with their constitutionally protected status as a parent. Supreme court precedent has held that "unfitness, neglect, and abandonment clearly constitute conduct inconsistent with the protected status parents may enjoy, but other types of conduct, which must be viewed on a case-by-case basis, can rise to this level . . ." Sl. Op. at 8 (citation omitted). The six challenged findings are supported by clear and convincing evidence, including social worker testimony, except portions of two findings that are disregarded - one as to the number of texts from DSS unreturned from Mother and the other as to the GAL's contact with Mother before the permanency planning hearing. The remaining, supported findings support the trial court's conclusion that Mother waived her paramount constitutional rights. Findings show Mother had an unknown role in the death of the child's sibling; Mother had mental health issues following the death of the child's sibling and declined treatment; Mother frequently was unresponsive to

DSS and the GAL; and that Mother had not been significantly active in the child's life since removal..

- Dispositional choices, including the trial court's determination to eliminate reunification as a permanent plan, are reviewed for an abuse of discretion. "An abuse of discretion occurs when the trial court's ruling is so arbitrary that it could not have been the result of a reasoned decision." Sl. Op. at 13 (citation omitted). The trial court did not abuse its discretion in determining to eliminate reunification efforts with Mother. The trial court concluded returning the child home is contrary to the child's best interests and contrary to her health and safety. These conclusions are supported by the same findings which support the trial court's conclusion that Mother waived her constitutionally protected status as a parent, discussed immediately above, under the "far less deferential" de novo standard of review. Sl. Op. at 13. The trial court did not abuse its discretion in placing the child with her uncle. Findings show that although the child had a strong bond with the paternal grandparents with whom she was originally placed, they were advanced elderly with declining health concerns and the child had a bond with the paternal uncle.
- G.S. 7B-906.1(j) requires the trial court "verify that the person receiving custody . . . of the juvenile understands the legal significance of the placement . . . and will have adequate resources to care appropriately for the juvenile." Sl. Op. at 13, *quoting* G.S. 7B-906.1(j). The supreme court has held that specific findings are not required to make the verification but "the [R]ecord must show the trial court received and considered reliable evidence that the guardian or custodian had adequate resources and understood the legal significance of custody or guardianship." Sl. Op. at 14 (citation omitted). The evidence shows the trial court verified that the uncle understood the legal significance of the placement and adequacy of resources to care for the child, including a twenty page report from DSS showing his willingness and ability to care for the child, his custodial obligations and responsibilities, and household finances.
- Dissent: Both the PPO and custody order should be vacated in their entirety. The trial court's conclusion that Mother is unfit or engaged in conduct which waives her constitutionally protected status as a parent is unsupported and should be vacated.

Custody; Ch 50 order via 7B-911

In re S.H., \_\_\_ N.C. App. \_\_\_ (March 18, 2026)

**Held: Affirmed**

**Dissent in part, Collins, J.**

- Facts: The three children at issue were adjudicated neglected. The trial court ultimately entered a permanency planning order granting sole legal and physical custody of the children to Father. Mother was awarded secondary physical custody with visitation every other weekend and additional periods as mutually agreed to by the parties. The trial court terminated jurisdiction in the juvenile proceeding and a Chapter 50 custody order was entered to the same effect. Mother appeals, arguing the custody determination is not supported by the findings and is contrary to the children's best interests. Mother does not challenge the trial court's termination of the juvenile proceedings; the operative order on appeal is the permanent custody order. Summarized separately is mother's appeal of the visitation order in the Ch. 50 order arising from the 7B-911 transfer.
- Civil custody orders are reviewed to determine "whether there was competent evidence to support the trial court's findings of fact and whether its conclusions of law were proper in light of such facts." Sl. Op. at 6 (citation omitted).

- G.S. 7B-911(c) provides the procedure to transfer a juvenile proceeding to a Chapter 50 civil action. Under G.S. 7B-911, the trial court must “[m]ake findings and conclusions that support the entry of a custody order in an action under Chapter 50 . . .” Sl. Op at 6. Under G.S. 7B-13.2(a), the trial court awards custody based on the best interests and welfare of the child after considering “all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party.” *Id.*
- The unchallenged findings are supported by competent evidence, including incorporated findings from the final permanency planning order.
- The findings consider the relevant factors in making a best interest determination under G.S. 50-13.2(a) and are sufficient to support the trial court’s custody determination. Findings in the civil custody order include that the children had been in a trial home placement with Father for thirteen months and Father is meeting the children’s needs; Father (who has MS) was supported by his grandmother who the trial court found able and willing to continue supporting Father and caring for the children; the children preferred to live with Mother or return to their previous foster home until they could live with Mother; and Mother’s two older children, each of whom suffer from mental illness that require treatment and medication management, are in a trial home placement with Mother and there are concerns about Mother’s ability to manage their behavior with the three younger children in the home. The trial court found there is not a need for continued State intervention on behalf of the children, specifically found Father fit to have custody of the children, the placement was stable and that custody with Father was in the children’s best interest.

## Terminate Jurisdiction

### Chapter 50 order via 7B-911; Subject matter jurisdiction

In re A.C., \_\_\_ N.C. App. \_\_\_ (April 1, 2026)

**Held: Vacated and Remanded**

**Concur in part and dissent in part, Tyson, J.**

- Facts: The child at issue was adjudicated neglected. At disposition, custody was awarded to the child’s paternal grandparents. A subsequent permanency planning order eliminated reunification with Mother, awarded custody to the child’s paternal uncle, and terminated juvenile jurisdiction. Two days later, the district court entered a custody order to the same effect. Mother appeals the permanency planning and custody orders. This summary addresses Mother’s challenges to the jurisdictional sufficiency of the custody order.
- Issues of statutory construction and subject matter jurisdiction are reviewed de novo.
- The juvenile court must enter a permanent order that satisfies the following statutory requirements prior to concluding juvenile jurisdiction is terminable. The trial court must (1) make findings and conclusions to support entry of a Chapter 50 custody order and (2) make findings that there is not a need for continued State intervention in the matter and “[a]t least six months have passed since the court made a determination that the juvenile’s placement with the person to whom the court is awarding custody is the permanent plan for the juvenile[.]” Sl. Op. at 5-6, *quoting* G.S. 7B-911(c). (Author’s note: there are exceptions to the time period for custody awarded to a parent or a person the child was living with when the juvenile petition was filed)
- The PPO did not comply with G.S. 7B-911 and the resulting custody order was entered without jurisdiction. G.S. 7B-911 establishes the procedure that must be followed, and requires the juvenile court enter a permanent order before it terminates its jurisdiction in the juvenile action. The PPO terminating juvenile jurisdiction was entered before six months had passed since the

child's placement with her uncle and therefore did not meet the statutory requirements of G.S. 7B-911(c)(2) to terminate juvenile jurisdiction. The civil custody order is not supported by jurisdiction and is vacated. Jurisdiction continues with the juvenile court until jurisdiction is properly terminated under the provisions of G.S. 7B-911.

## Appeal

Appealable Order: PPO eliminating reunification on remand; Writ of certiorari  
In re Q.J.P., \_\_\_ N.C. App. \_\_\_ (March 4, 2026)

### **Held: Dismissed**

- Facts and procedural history: This is Mother's second appeal involving her three children who were each adjudicated neglected. On the first appeal, permanency planning orders (PPO) for each of the children were vacated and remanded for failure to make required findings under G.S. 7B-906.2 when eliminating reunification with Mother. See In re Q.J.P., 296 N.C. App. 175 (2024) (Q.J.P. I). Amended PPOs were entered on remand that eliminated reunification as a permanent plan. After Q.J.P. I. and prior to entry of the amended PPOs, DSS filed petitions to terminate Mother's parental rights (TPR) to each of the three children. Mother appeals the amended PPOs, arguing the trial court erred by eliminating reunification as a permanent plan and that the court's conclusion that DSS made reasonable efforts towards reunification were unsupported by the evidence. DSS moved to dismiss the appeal, arguing Mother's appeal is not ripe under G.S. 7B-1001(a)(8) until the TPR is heard and granted. Mother argues the orders are part of her previous appeal and satisfy the requirements for a direct appeal under G.S. 7B-1001(a)(5). Mother alternatively petitions for a writ of certiorari.
- PPOs eliminating reunification as a permanent plan are appealable under G.S. 7B-1001(a)(5). "[A] parent who is a party" may directly appeal the PPO if several criteria are met, including that (1) the parent preserved the right to appeal within 30 days of entry and service of the PPO, (2) a TPR petition or motion has not been filed within 65 days of entry and service of the PPO, and (3) a notice of appeal of the PPO is filed within 30 days after the expiration of the 65-day waiting period. G.S. 7B-1001(a)(5).
- DSS's motion to dismiss the appeal is allowed. TPR petitions were filed for each child in February 2025. The amended PPOs were entered on remand for two of the children in March 2025 and for the third child in April 2025. These are new orders and not extensions of the original permanency planning orders. "[A]n appellate court's remand for a district court to make additional findings does not change how the orders entered on remand must be appealed." Sl. Op. at 8. Since TPR petitions were filed within 65 days of entry of each of the new PPOs, Mother cannot directly appeal under G.S. 7B-1001(a)(5). Instead, Mother must appeal the PPO and TPR order together under G.S. 7B-1001(a)(8).
- Extraordinary circumstances justifying issuing a writ of certiorari "generally require[] a showing of substantial harm, considerable waste of judicial resources, or 'wide-reaching issues of justice and liberty at stake.'" Sl. Op. at 9 (citations omitted). Mother's conditional petition for writ of certiorari is denied. Mother's appeal is delayed until the trial court hears and rules on the TPR petitions pursuant to G.S. 7B-1001(a)(8). Her notices of appeal would be properly treated as notices to preserve the right to appeal. These circumstances are not extraordinary. The court of appeals recognized G.S. 7B-1001(a)(8) requires that a TPR petition be "heard and granted" before a PPO eliminating reunification may be appealed, and "is thus silent on the right to

appeal a [PPO] eliminating reunification when a TPR petition is filed within the sixty-five-day period but then *denied*.” Sl. Op. at 10 n.5 (emphasis in original). This scenario may require petitioning for a writ of certiorari to appeal the PPO.

### Preservation; Constitutional rights and continuance

[In re L.M.](#), \_\_\_ N.C. App. \_\_\_ (November 19, 2025)

#### **Held: Affirmed**

- **Facts:** Mother appeals a permanency planning order arguing the trial court abused its discretion in denying her motion to continue. At the hearing, Mother’s counsel motioned to continue based on Mother’s absence with no further reason offered. The trial court denied the motion and the hearing proceeded. The court ultimately entered an order eliminating reunification as a permanent plan for six of Mother’s children. Part of Mother’s argument on appeal is that her due process rights and right to effective assistance of counsel were violated when the court conducted the hearing in her absence.
- **N.C. Rule of Appellate Procedure 10(a)(1)** requires that to preserve an issue for appellate review, a party must have timely requested, objected, or motioned the trial court and stated specific grounds for the desired ruling if the grounds are not apparent from the context. Appellate precedent holds that a parent waives the argument that denial of their motion to continue violated their constitutional rights when nothing in the record indicates the motion was based on the need to protect the parent’s constitutional rights. A parent’s absence alone does not amount to a due process violation or make apparent the motion is based on constitutional grounds.
- **Mother waived her constitutional arguments.** Mother’s absence was the only reason offered by Mother’s counsel for the motion to continue. No further context was provided and nothing in the record indicates the motion was made to protect Mother’s constitutional rights to due process or effective counsel.

## Termination of Parental Rights

### GAL for Respondent Parent

Appointment; Notice to parent; Preserving the issue

[In re A.T.](#), \_\_\_ N.C. App. \_\_\_ (November 5, 2025)

#### **Held: Affirmed in Part; Vacated and Remanded in Part**

- **Facts:** Respondent Father appeals the order terminating his parental rights on the ground of neglect. The children were removed from Father and Mother and adjudicated neglected based on concerns for the parents’ mental health, substance use, employment and housing. Both parents were ordered to undergo comprehensive psychological evaluations as part of their case plan. Father’s evaluation indicated diagnoses of cannabis use disorder and either bipolar disorder or schizoaffective disorder, but also indicated Father was not subject to cognitive limitations or learning disabilities. During permanency planning a continuance order was entered *sua sponte* finding there was cause to appoint a Rule 17 Guardian ad Litem (GAL) for both parents. Both parents and their appointed GALs appeared at a subsequent permanency planning hearing where the court identified parents’ mental health, housing, substance use, and employment remained barriers to reunification. DSS filed TPR motions for both parents and

their rights were ultimately terminated. Father argues the trial court abused its discretion in appointing a Rule 17 GAL without notice or conducting an inquiry to determine his incompetency. Mother did not appeal her Rule 17 GAL appointment.

- The court of appeals recognized Father did not preserve the constitutional issue for appeal and neither Father nor the children's GAL addressed preservation in their appellate briefs. The court of appeals invoked Rule 2 of the Rules of Appellate Procedure to review Respondent-Father's argument, noting this as an exceptional circumstance given the nature of the appointment of Father's GAL – *sua sponte* in a continuance order – which made it impossible for Father to contemporaneously object.
- Trial court decisions to appoint a GAL for a parent and inquiries concerning a parent's competence are reviewed on appeal for abuse of discretion.
- G.S. 7B-1101.1(c) allows the trial court to appoint a Rule 17 GAL for an incompetent parent on motion of any party or the court's own motion. Courts look to the definition of incompetent adult in G.S. 35A-1101(7). "[E]vidence of mental health problems is not *per se* evidence of incompetence to participate in legal proceedings." Sl. Op. at 9 n.8 (citation omitted). Appointment of a GAL "divest[s] the parent of their fundamental right to conduct his or her litigation according to their own judgment and inclination." Sl. Op. at 7 (citation omitted). Appellate precedent requires a parent to have knowledge or notice that a motion seeking appointment of a GAL for the parent is being made before the appointment may be made.
- The trial court abused its discretion by appointing a GAL for Father without providing Father notice and an opportunity to be heard on the issue. Additionally, the trial court's decision appeared to be based solely on Father's psychological evaluation without any further evidence or inquiry of Father's competence to participate in the proceedings. The TPR order as to Respondent-Father is vacated and remanded for a new hearing.
- The court of appeals rejected the argument of the children's GAL that Respondent-Father has diminished capacity and therefore the GAL was acting in an assistive rather than substitutive role. Those distinctions were removed by the General Assembly in 2013 and the statute now only authorizes the appointment of a GAL, which acts in a substitutive capacity, for an incompetent adult. Sl. Op. at 8 n.7.

## Adjudication

Neglect; Death of another child; Incarceration

In re A.T.T., \_\_\_ N.C. App. \_\_\_ (April 1, 2026)

### **Held: Affirmed**

- Facts: This is an appeal of the termination of Mother's parental rights to her five children. Prior to the TPR, the juveniles were adjudicated neglected and dependent based on circumstances created by mother that included the death due to starvation/malnourishment of the seven-month-old sibling, a twin of the youngest child, an unsanitary home with feces throughout, little food for the children, the surviving twin sibling being severely malnourished, and a delay in seeking medical care for the other children immediately after the infant's death. Mother faced felony child abuse for the surviving twin and first degree murder charges for the deceased twin and was incarcerated and unable to provide any viable alternative child care arrangements for the children. Another child was born during her incarceration who was also later adjudicated neglected and dependent. Attempts to locate the children's fathers were unsuccessful. During the underlying proceeding, DSS was relieved of making reasonable efforts towards reunification; however, DSS allowed Mother to verbally enter into a jail case plan. The plan required her to not

incur disciplinary infractions while incarcerated; participate in all available parenting, mental health, and substance use programs and classes; and communicate with DSS monthly. Based on Mother's noncompliance and failure to communicate with the children, DSS filed the TPR. Mother's rights were terminated on the grounds of neglect, abandonment, dependency, and willful failure to make reasonable progress in correcting the conditions which led to the juveniles' removal. Mother appeals, challenging several findings as unsupported, specifically arguing there is a lack of evidence as to the conditions between the children's removal and the TPR hearing to support the adjudication of the ground of neglect.

- Appellate courts review TPR orders to “ ‘determine whether the findings are supported by clear, cogent and convincing evidence and [whether] the findings support the conclusions of law’ that one or more grounds for termination exist.” Sl. Op. at 8 (citation omitted). Conclusions of law are reviewed de novo.
- G.S. 7B-1111(a)(1) allows a trial court to TPR if the court concludes that the parent has neglected the child as defined by G.S. 7B-101(15). A neglected juvenile is one whose parent “[d]oes not provide proper care, supervision, or discipline[,]” “[h]as not provided or arranged for the provision of necessary medical or remedial care[,]” or “[c]reates or allows to be created a living environment that is injurious to the juvenile’s welfare.” G.S. 7B-101(15)(a), (c), (e). “[I]t is relevant whether the juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect by an adult who regularly lives in the home.” G.S. 7B-101(15). In instances where the child and parent have been separated for a long period of time, “there must be a showing of past neglect and a likelihood of future neglect by the parent.” Sl. Op. at 9 (citation omitted). A parent’s failure to make progress on their case plan can indicate a likelihood of future neglect. While incarceration is “neither a sword nor a shield” in a TPR action, “a parent will not be excused from showing interest in the child’s welfare by whatever means available.” Sl. Op. at 10 (citations omitted).
- The trial court’s findings of fact are supported by clear and convincing evidence and support the conclusion that Mother neglected the children and there is a likelihood of future neglect. Challenged findings are supported by record evidence, including the underlying adjudication order that shows Mother’s past neglect, and the continued neglect during Mother’s incarceration and the continued existence of conditions that led to the children’s removal. Mother failed to complete any component of her case plan; incurred four infractions while incarcerated in violation of the verbal agreement with DSS; refused to acknowledge the conditions that led to the twin sibling’s death, the surviving twin’s malnourishment, and the unsafe conditions of the home; and that though DSS provided Mother with opportunities to communicate with the children, Mother took no steps to communicate in any manner. Unchallenged findings show that Mother did not adequately nourish the twins despite having the resources to do so; there was little food in the home for the other children; Mother did not take the children to medical appointments and delayed care for the surviving twin; the home was unsanitary, filled with trash, dirty diapers, and had feces on the stairs and walls; and the other children lived in the home where their sibling died and observed the conditions leading to their sibling’s death.

#### Neglect; Likelihood of future neglect

In re A.T., \_\_\_\_ N.C. App. \_\_\_\_ (November 5, 2025)

#### **Held: Affirmed in Part; Vacated and Remanded in Part**

- Facts: Respondent Mother appeals an order terminating her parental rights as to two children based on the ground of neglect. The children had been adjudicated neglected based on concerns for the parents’ mental health, substance use, employment and housing. Both parents

were ordered to undergo comprehensive psychological evaluations as part of their case plan. Mother's evaluation indicated significant psychological problems and multiple diagnoses for which she refused recommended treatment. Subsequent permanency planning findings consistently found Mother's lack of stable employment and mental health issues remained barriers to reunification, though Mother had found stable housing. The court ultimately terminated both parents' rights. Mother appeals, challenging several findings and the court's determination that the evidence established a likelihood of future neglect.

- Appellate courts review the adjudication of grounds to TPR to determine whether the findings of fact are supported by clear, cogent, and convincing evidence and whether the findings support the conclusion of law. Conclusions of law are reviewed de novo. Findings supported by competent evidence are binding on appeal even if contrary evidence exists.
- G.S. 7B-1111(a)(1) allows a trial court to TPR if the court concludes that the parent has neglected the child as defined by G.S. 7B-101(15). A neglected juvenile is one whose parent "[d]oes not provide proper care, supervision, or discipline" or "[c]reates or allows to be created a living environment that is injurious to the juvenile's welfare." G.S. 7B-101(15)(a), (e). In instances where the child and parent have been separated for a long period of time, "there must be a showing of past neglect and a likelihood of future neglect by the parent." Sl. Op. at 10 (citation omitted). When determining whether future neglect is likely, the trial court "must consider evidence of changed circumstances between the period of past neglect and the time of the termination hearing." Sl. Op. at 11 (citation omitted). Failure to make progress on the parent's case plan can be indicative of a likelihood of future neglect.
- Challenged findings are supported by the evidence and relevant. Though some challenged findings recite evidence (e.g., reports), some are based at least in part on testimony from the hearing. The order contains ample specific, ultimate findings to support the trial court's conclusion that TPR grounds existed and that the trial court made an independent determination on the evidence presented. Part of the finding indicating the family had been evicted for weeks, rather than days, prior to the report to DSS is unsupported and disregarded.
- The trial court's conclusion that Mother's parental rights were subject to termination was supported by the findings and the findings demonstrated both past neglect and a likelihood of future neglect. Findings included that although Mother had found stable housing and had recently begun to comply with clinical recommendations with regards to her mental health, Mother inconsistently adhered to her case plan over the eighteen months between when the children were removed and the TPR hearing, had not secured stable employment, had not addressed her substance use and repeatedly tested positive for marijuana.

[In re J.E.S.](#), \_\_\_ N.C. App. \_\_\_ (June 3, 2026)

**Held: Affirmed**

- Facts: Mother appeals a permanency planning order that eliminated reunification with her and a termination of her parental rights to the three youngest of her eight children. Regarding her other 5 children, mother's rights to 4 of them were previously terminated and one child died from nonaccidental injuries of which mother was convicted for felony aggravated battery. The three children in the current A/N/D and TPR actions were adjudicated based on circumstances created by mother's mental health, personality disorders, borderline intellectual functioning, housing, use of marijuana, and failure to provide proper care and supervision, including a lack of vaccinations and well-child checkups for the twins who were born prematurely. There was a car

accident where mother was driving with all three young children without appropriate seats resulting in two of the children suffering traumatic brain injuries and skull fractures, and one child having hypothermia due to inappropriate clothing in the cold weather. Through her case plan, mother engaged in therapy, completed a parenting class, worked with a parenting aide, was employed, and obtained independent housing but did not address medication management and the need for it through a psychiatric evaluation and was unable to show an understanding of the children's reasons for care and how to appropriately supervise the children. Ultimately a primary permanent plan of adoption and a secondary plan of reunification with father was ordered. Mother's rights were terminated for neglect, a prior TPR and failure to provide a safe home, and dependency.

- Neglect includes the failure to provide proper care, supervision, and discipline; not providing or arranging for necessary medical or remedial care; or creating an injurious environment to the juvenile's welfare. It is relevant whether the child lives in a home where another child has died as a result of suspected abuse or neglect or where another child has been abused or neglected by an adult who regularly lives in the home. G.S. 7B-101(15).
- Challenged findings are supported by the evidence and those findings as well as unchallenged findings support the conclusion of neglect. The findings show a likelihood of future neglect based on mother's marijuana use impairing her judgment with supervision; her inability to safely parent due to her mental health, intellectual functioning, and CPS and criminal history; and her past behavior including felony assault resulting in death of one child, TPRs of other children, and the car accident resulting in these children's injuries; and a lack of appropriate supervision.

Neglect; Willfully leaving child in placement without reasonable progress; Dependency;  
Incarceration

In re L.B., \_\_\_ N.C. App. \_\_\_ (March 4, 2026)

**Held: Vacated and Remanded**

- Facts: Father appeals the termination of his parental rights on the grounds of neglect, willfully leaving the child in foster care for 12 months without making reasonable progress, and dependency. In an underlying juvenile proceeding, the child was adjudicated neglected and dependent. At the time of the disposition in that case, Father was incarcerated in the county jail and was ordered to comply with the 15-part case plan. Four years later, at a permanency planning hearing, the trial court found Father had been sentenced on federal charges to 33 years of incarceration; had not entered into a case plan with DSS or responded to DSS attempts to contact him; or provided any support or care for the child or visited with the child since before the child's adjudication. The court ordered a primary plan of adoption with secondary plans of reunification and guardianship. DSS filed a TPR petition, which was granted. Father argues the trial court erred in concluding grounds existed to TPR under G.S. 7B-1111(a)(1) and (a)(2) because the trial court improperly based its conclusion almost entirely on Father's incarceration.
- Appellate courts review a TPR order to determine "whether the findings of fact are supported by clear[] and convincing evidence and whether those findings of fact support its conclusions of law." Sl. Op. at 5 (citation omitted).
- Challenged findings are unsupported by the evidence and are disregarded.

- G.S. 7B-1111(a)(1) allows the trial court to TPR where the parent has neglected the juvenile within the meaning of G.S. 7B-101. G.S. 7B-1111(a)(2) allows the trial court to TPR where the parent “has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made in correcting those conditions which led to the removal of the juvenile.” Incarceration is “neither a sword nor a shield in a termination of parental rights.” Sl. Op. at 10 (citation omitted). Appellate precedent prohibits terminating parental rights based on a respondent parent’s incarceration alone.
  - The trial court’s findings are insufficient to support a conclusion Father neglected the juvenile or willfully left the juvenile in a placement for more than 12 months without making reasonable progress to correct the circumstances that led to the child’s removal. The findings concerning Father’s ability to support or provide for the child are expressly based on Father’s incarceration and acknowledge Father’s limited access to services for most of the life of the case due to incarceration at the county jail. The findings also show that at the time of the TPR hearing Father made increased progress on his case plan since his transfer to federal prison and reflect Father’s continued involvement with the child, including maintaining contact with DSS; completing parenting and anger management classes; and sending birthday cards and letters to the child at least monthly for the two years preceding the TPR hearing.
- G.S. 7B-1111(a)(6) allows the trial court to TPR where the parent “is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that the incapability will continue for the foreseeable future.” Findings for this ground “must address [at the time of the TPR hearing] both (1) the parent’s ability to provide care and supervision, and (2) the availability to the parent of alternative child care arrangements.” Sl. Op. at 13 (citation omitted). While incarceration cannot be the sole factor, trial courts can consider “the substantial length of [the parent]’s sentence, its effect upon the minor children, the minor children’s physical and emotional well-being, and [the parent]’s lack of appropriate alternative placements for the children.” Sl. Op. at 12 (citation omitted). Appellate precedent holds that “extended period of incarceration can render a parent incapable of providing sufficient care and supervision of a minor child.” Sl. Op. at 13 (citation omitted).
  - The trial court’s findings that Father faces a minimum of ten years of incarceration are sufficient to support the determination that Father is incapable of providing for the proper care and supervision of the child and there is a reasonable probability the incapability will continue for the foreseeable future. However, the trial court made ultimate findings that Father lacked appropriate alternative child care arrangement without finding any evidentiary facts to support this determination. Although the TPR order incorporated the findings and conclusions from the juvenile adjudication and disposition orders regarding a lack of appropriate alternative child care, those orders were from six years prior. There were no findings to reflect whether Father had an alternative appropriate child care arrangement at the time of the TPR hearing. The dependency ground is remanded for further findings based on the evidentiary record.

Willful abandonment

In re L.D.W., \_\_\_\_ N.C. App. \_\_\_\_ (March 18, 2026)

**Held: Affirmed**

- Facts: This is a private TPR action initiated by Mother against Father who has a history of substance use and domestic violence. In 2021, Mother obtained a domestic violence protective order (DVPO) due to ongoing harassment and threats from Father. The DVPO prohibited Father from contacting Mother other than through attorneys. Also in 2021, the trial court entered a temporary custody order (TCO) that ceased Father's visitation and limited contact with the child to a phone call at a set time three days a week. Father only called the child as permitted 4 times. But, Father called Mother outside of the times established in the TCO when the child was not available to harass Mother and served two short sentences in 2022 for violating the DVPO. Father did not contact the child after September 2021. Mother was awarded permanent custody of the child in January 2023 at a hearing where Father was not present. The permanent custody order ordered Father to have no contact with the child. In March of 2023, Mother filed this private TPR action. In September 2023, Father moved and the trial court granted a Rule 60 motion to set aside the permanent custody order due to lack of notice to Father. Father's parental rights were terminated on the grounds of willful abandonment and neglect. Father appeals arguing the findings do not support the conclusions and the court erred in limiting his cross-examination of Mother.
- Appellate courts review the adjudication of grounds to TPR to determine whether the findings are supported by clear and convincing evidence and whether the findings support the conclusions of law. Conclusions of law are reviewed de novo.
- G.S. 7B-1111(a)(7) allows the trial court to TPR where the parent "willfully abandons the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion." "If a parent withholds that parent's presence, love, care, the opportunity to display filial affection, and willfully neglects to lend support and maintenance, such parent relinquishes all parental claims and abandons the child." Sl. Op. at 5 (citation omitted). "Despite incarceration, a parent failing to have any contact can be found to have willfully abandoned the child." Sl. Op. at 10 (citation omitted). A trial court may consider evidence outside of the determinative six-month period to "evaluate the parent's credibility and intentions." Sl. Op. at 5 (citation omitted).
- The one challenged finding is supported by the evidence and not speculative. Evidence showed the notice of the permanent custody hearing and the permanent custody order were sent to the same address such that father did not have notice of the permanent custody order that prevented contact with the child until after the determinative six-month period for abandonment. Without receiving the notice and order, Father was under the belief that he could continue to call the child under the terms of the temporary custody order and failed to do so.
- The challenged and unchallenged findings support the conclusion Father willfully abandoned the child during the six months preceding the filing of the TPR petition. The determinative time period is September 2, 2022 through March 2, 2023. Father has not had contact with the child since 2021. Throughout the determinative six-month period, Father remained able to communicate with the child at specified times and days pursuant to the TCO but failed to do so. Father could have sought a review of the TCO once he obtained drug or psychological evaluations, but he did not obtain those evaluations. Although Father was incarcerated for part

of the six-month period, his incarceration did not prevent him from having any contact with the child. The permanent custody order Father argues prevented him from contacting the child does not account for Father's failure to contact the child before that order was in effect. Father's violations of the DVPO were not related to any attempts to contact the child but instead resulted from his contacting Mother (the plaintiff) outside of the designated time periods for him to call the child. Father has not sent cards, letters, or gifts to the child since 2021; has not made any inquiry with the child's educators or healthcare providers; and has not provided financial support to the child since 2021. Findings show Mother has not changed her phone number and has remained a resident of and has been employed in the same county for the duration of the child's life. If the court accepted Father's argument that the permanent custody order prevented contact with the child, Father presented no evidence of any acts he took to contact the child during the six-month period.

- The trial court did not err in limiting Father's cross-examination of Mother during the adjudicatory phase. Appellate courts are limited to reviewing the record on appeal. There is no evidence in the record of what Father intended to ask Mother apart from the few questions asked relating to the child's relationship with Father's family prior to the objection that the information sought went to the child's best interests. Father did not suggest that he attempted to elicit an alternative reason for his lack of contact with the child that was unrelated to willful abandonment. The limitation on his cross-examination was also not prejudicial as other evidence in the record shows the hostile relationship between Mother and Father, including text messages, judicially noticed court files, and witness testimony.

## Disposition

### Evidence; GAL Report

In re R.D.L., \_\_\_ N.C. App. \_\_\_ (May 20, 2026)

#### **Held: Affirmed**

- Facts: Two children were adjudicated neglected and dependent based on Mother and Father's substance use, severe abuse of the younger child, failure to provide medical care and treatment for the younger child, truancy of the older child, and concerns for unsafe and unstable housing for the children. Although the parents made some progress on their case plans and visited with the children, they were arrested and convicted of felony child abuse. The children's primary plans were changed to adoption with secondary plans of reunification. DSS filed to terminate Mother and Father's parental rights under G.S. 7B-1111(a)(1), (2), (6), and (8). After adjudicating grounds, the trial court moved to the dispositional hearing, where it received CPS reports, a letter from the 13 year old, and testimony from a social worker and a foster parent, and orally agreed to incorporate GAL and CPS reports into its findings. The trial court determined termination was in the children's best interest. Mother and Father appeal, arguing the trial court erred at disposition by considering the GAL report when it was not formally offered into evidence at the hearing.
- Dispositional findings are reviewed to determine whether the findings are supported by competent evidence. A trial court's determination that termination is in the child's best interest is reviewed for an abuse of discretion.
- In its determination of whether termination is in the juvenile's best interest at the dispositional phase of a TPR hearing, "[t]he trial court may consider any evidence, including hearsay evidence

as defined by [N.C.G.S.] 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the best interests of the juvenile." Sl. Op. at 9, *quoting* G.S. 7B-1110. The supreme court has held that a trial court has "significantly more discretion in its receipt of evidence" at the disposition phase of TPR proceedings given the lower evidentiary standard and the purposes of the Juvenile Code to ensure the child's best interests are paramount and that children are placed in a safe, permanent home within a reasonable time when it is not in their best interest to return home. "[B]ecause of the relaxed nature of dispositional hearings, like permanency planning hearings, the trial court is "free to consider written reports submitted by [a party] without a formal proffer and admission of these documents into evidence as exhibits." Sl. Op. at 11 (citation omitted). As part of their duties under G.S. 7B-601, a GAL "*must* offer evidence, either written reports, testimony, or both, recommending to the trial court which course of action is in the best interests of the child[.]" in order for a trial court to make a reasoned dispositional ruling under G.S. 7B-1110.

- The trial court did not abuse its discretion in determining termination was in the children's best interests. Mother's argument that the GAL report was not offered into evidence, no certificate of service was filed, and she did not have an opportunity to object absent a formal tender is meritless. The record shows the GAL offered a report to the court and the trial court received and intended to consider the report as evidence when orally stating it would incorporate the GAL and CPS reports into its findings. The trial court also received multiple testimonies, medical records, photos of the children, a letter from the older child, and the parent's criminal judgments.

#### Best interest findings; Dispositional alternatives

In re T.M., \_\_\_ N.C. App. \_\_\_ (March 4, 2026)

##### **Held: Affirmed**

- Facts: Mother appeals an order terminating her parental rights. The child was adjudicated neglected based on incidents of domestic violence between Mother and Father. The trial court initially adopted a primary permanent plan of reunification and a secondary plan of adoption. Among other components, Mother was ordered to complete domestic violence classes and any recommended treatment. Mother was later charged with first-degree murder of Father. The child's primary permanent plan was changed to adoption with a secondary plan of guardianship. Mother identified her mother (maternal grandmother) as a potential guardian. Mother was convicted of second-degree murder and sentenced to 240 to 300 months' imprisonment. DSS filed to terminate Mother's parental rights. The trial court adjudicated three grounds and found termination in the best interest of the child. Mother appeals, arguing the trial court misapprehended the law and erred in finding permanence for the child could only be achieved through adoption, and the conclusion that termination was in the child's best interest.
- Dispositional findings are reviewed to determine whether they are supported by sufficient evidence. A trial court's best interest determination is reviewed for abuse of discretion.
- At the dispositional stage of a TPR the trial court must consider whether termination is in the juvenile's best interest by considering factors listed in G.S. 7B-1110(a). The court must make written findings of the relevant factors. Appellate precedent has held that a trial court "is not required to make written findings regarding any dispositional alternatives it considered." Sl. Op. at 4-5.

- The trial court did not abuse its discretion. The challenged findings “reflect the court’s weighing of the statutory factors and evidence presented, not a misunderstanding of the law regarding permanent plans.” Sl. Op. at 6. The findings show that the trial court determined guardianship was not in the child’s best interest because it is subject to modification and lacks the same degree of permanence as adoption; the child’s need for permanence outweighed the purpose of maintaining the biological family’s connection consistent with the principle that the “paramount consideration must always be the best interest of the child[;]” and the child’s need for “safety, security, emotional support, and a permanent home.” Sl. Op. at 6-7, 7 (citation omitted).

## UCCJEA

### Subject Matter Jurisdiction

International home state; Significant connection; No Initial Custody Determination Jurisdiction  
Bonomo v. Shabat, \_\_\_ N.C. App. \_\_\_ (April 1, 2026)

#### **Held: Reversed and Remanded**

- Facts: Father, a North Carolina resident, filed a verified complaint in Wake County against Mother, a resident of the U.K., to establish paternity and for child custody. The child at issue was born in the U.K. and has resided with Mother since birth, approximately two months. Mother filed a motion to dismiss asserting lack of personal jurisdiction, insufficient service of process, and lack of subject matter jurisdiction. No evidence was introduced at the hearing on the motion and the motion was denied, partly based on the trial court’s conclusion that North Carolina had subject matter jurisdiction under G.S. 50A-201(a)(2) based on the child’s and Father’s significant connection to North Carolina. Mother appeals from the trial court’s order denying her motion to dismiss, arguing the trial court lacks personal jurisdiction and subject matter jurisdiction under the UCCJEA.
- Appellate jurisdiction of the interlocutory order is proper because Mother’s subject matter jurisdiction challenge is coupled with a challenge of the trial court’s ruling that Mother had sufficient contacts with NC to establish personal jurisdiction. “[S]ubject matter jurisdiction is a prerequisite to personal jurisdiction.” Sl. Op. at 5.
- The standard of review of whether a court possesses subject matter jurisdiction under the UCCJEA is a matter of law reviewed de novo.
- “The UCCJEA provides a uniform set of jurisdictional rules and guidelines for the national and international enforcement of child-custody orders.” Sl. Op. at 6 (citation omitted). North Carolina courts must “treat a foreign country as if it were a state of the United States” in its international application of the UCCJEA “unless the foreign country’s child-custody law ‘violates fundamental principles of human rights.’ ” Sl. Op. at 7, *quoting* G.S. 50A-105(a). There is no allegation in Father’s complaint that the U.K.’s child-custody law violates fundamental human rights principles. The U.K. is treated as a state for purposes of the UCCJEA.
- The UCCJEA includes four bases for a trial court in North Carolina to obtain subject matter jurisdiction over an initial custody determination, which include obtaining jurisdiction as a court (i) in the child’s home state, (ii) in the state with significant connection and substantial evidence, (iii) when a court of the home state of the child declines to exercise jurisdiction on the ground that this State is the more appropriate forum, or (iv) by necessity when no other state has jurisdiction. G.S. 50A-201(a).

- A court has home state jurisdiction if the State “is the home state of the child on the date of the commencement of the proceeding . . .” Sl. Op. at 7, *quoting* G.S. 50A-2-1(a)(1). For a child less than six months old, “the ‘home state’ is ‘the state in which the child lived from birth’ with a parent.” Sl. Op. at 7, *quoting* G.S. 50A-102(7). The child in this case was born in the U.K. and had lived in the U.K. with their mother for the two months since birth, including the date Father filed the complaint. The U.K. is the child’s home state.
- North Carolina can exercise jurisdiction if a court in the child’s home state declines to exercise jurisdiction and the child and at least one parent have a “ ‘significant connection’ with North Carolina beyond ‘mere physical presence[,]’ and substantial evidence ‘concerning the child’s care, protection, training, and relationship’ is available in North Carolina.” Sl. Op. at 8, *quoting* G.S. 50A-201(a)(2). The trial court erred in concluding North Carolina has jurisdiction under G.S. 50A-201(a)(2). There is no evidence Father filed a complaint in the U.K. or that the U.K., as the child’s home state, declined to exercise jurisdiction. The verified complaint shows Mother and the child have significant connection to the U.K. and all evidence related to the child is located there. The trial court’s conclusion that substantial evidence is presumably available in North Carolina regarding Father’s ability to care for the child is not supported by the evidence.
- A North Carolina court may obtain jurisdiction if all courts having jurisdiction under G.S. 50A-201(a)(1) (home state) or (a)(2) (significant connection/substantial evidence) decline to exercise jurisdiction on the ground North Carolina “is the more appropriate forum[,]” or if “[n]o court of any other state would have jurisdiction under [G.S. 50A-201(a)(1), (a)(2), or (a)(3)].” Sl. Op. at 9, *quoting* G.S. 50A-201(a)(3), (4). Father’s allegations that Mother has a diplomatic visa and will resist custody proceedings in the UK are not based on personal knowledge and cannot support a finding regarding whether the UK could exercise jurisdiction. Given the U.K. has home state jurisdiction and has not declined to exercise jurisdiction, North Carolina does not have jurisdiction as the more appropriate forum or of necessity under G.S. 50A-201(a)(3) or (4).
- The North Carolina court lacked subject matter jurisdiction under the UCCJEA. The order denying Mother’s motion to dismiss is reversed and remanded with instruction to dismiss the complaint.