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Child Welfare Case Compendium

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The most efficient way to conduct a search is to use the pre-existing drop down menus, which start with one of the six main Categories of annotations (see the drop down menu for "All Categories"). Within each Category, additional filters have been created to allow a user to conduct a more focused search. When you select a Category, a new "Stage" drop down menu will appear. When you select a Stage, a "Topic" drop down menu will appear.

A search may also be conducted by typing a keyword in the "Search Term" box below. If your search phrase is composed of more than one word, please use quotation marks. If the drop down menus are not used, the search based on a word or phrase will apply to all the annotations contained in the CWCC.

Search Terms



All Categories

All Years

Results: 206

Case Update Social Services Attorneys Conference (Winter 2023)

BY: SARA DEPASQUALE,
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Universal Citation Rescinded

Feb. 1, 2023

- Supreme Court of North Carolina

State v. Smith, ^(official citation) 375 N.C. 152, ^(parallel citation) 2020-NCSC-45, ¶ 16.

Case Name

Year of Decision

Court Abbreviation

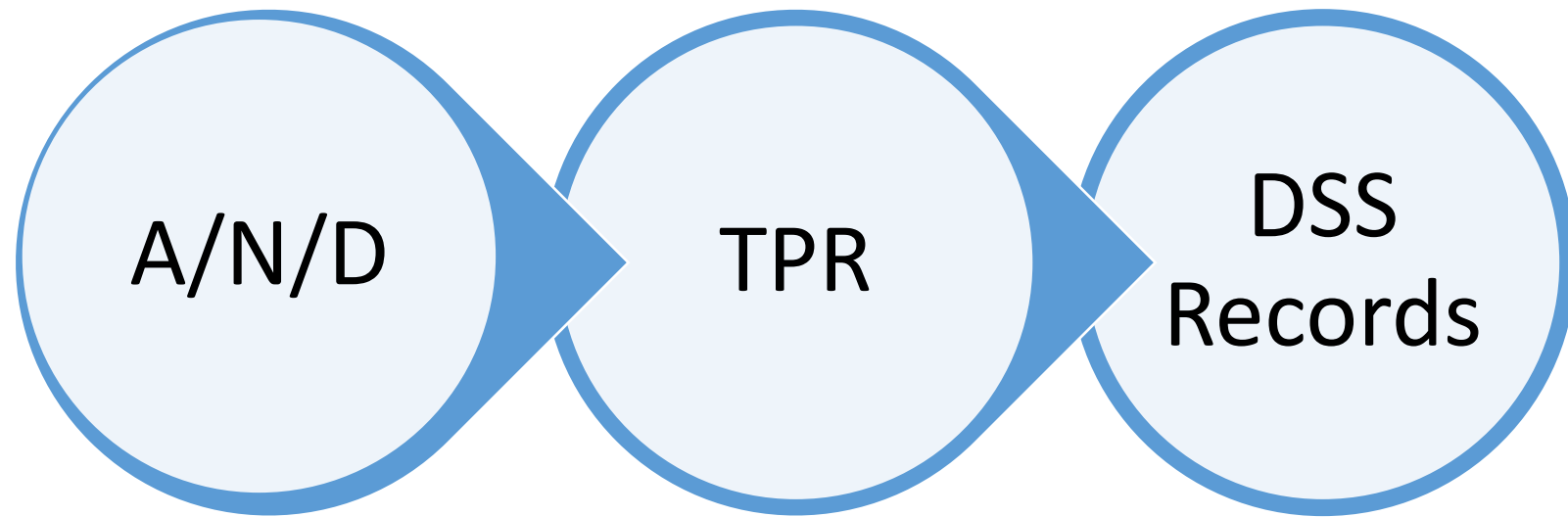
Opinion Number

Pinpoint Paragraph Number

- North Carolina Court of Appeals

State v. Smith, ^(official citation) 255 N.C. APP. 43, ^(parallel citation) 2020-NCCOA-118, ¶ 23.

Today's Topics



Adjudicatory Hearing



§ 7B-802. Conduct of hearing.

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

Dependency

In re L.N.H. (p. 6)

	Considered Evidence at Time of petition	Reversed Should have considered evidence at time of hearing	Reverse COA, determination of A/N/D is fixed at time of filing of petition
DSS report and A/N/D petition, Child burned, left alone	Adjudicatory Hearing and Initial Dispo and PPH	Appeal to COA	NC Supreme Court grants PDR

Plain Language

§ 7B-802. Conduct of hearing.

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

conditions underlying determination of whether a juvenile is an abused, neglected, or dependent juvenile are fixed at the time of the filing of the petition. This inquiry focuses on the **status** of the child at the time the petition is filed, not the post-petition actions of a party.

Exceptions

In re G.W. (p. 3)

Fixed and ongoing circumstance,
not discrete event or one-time
occurrence

- Paternity
- Mental Health



What is it?

Completing parenting class after petition filed ☐

Drug screens after petition filed ☐

Parents' inappropriate behavior at visits ☐

Recent observations of holes in the floor of the home ☐

Failure to receive MH services as required by case plan for siblings ☐



Do the
exceptions
still apply?

Neglect

G.S.7B-101(15)

Not provide proper care,
supervision, or discipline

Injurious Environment

It is relevant if another child dies
or is abused or neglected by adult
who regularly lives in the home

Harm or Substantial Risk of Harm

- Newborn does not have to return home from hospital
- Cannot be based on prior DSS case alone
- Must be presence of other factors indicating present risk



In re M.C.

Older siblings in DSS custody based on MH issues

Father argues prior neglect adjudication
irrelevant because about mom

Present factors: Behaviors while child in NICU

Child's Status Not Parent Culpability

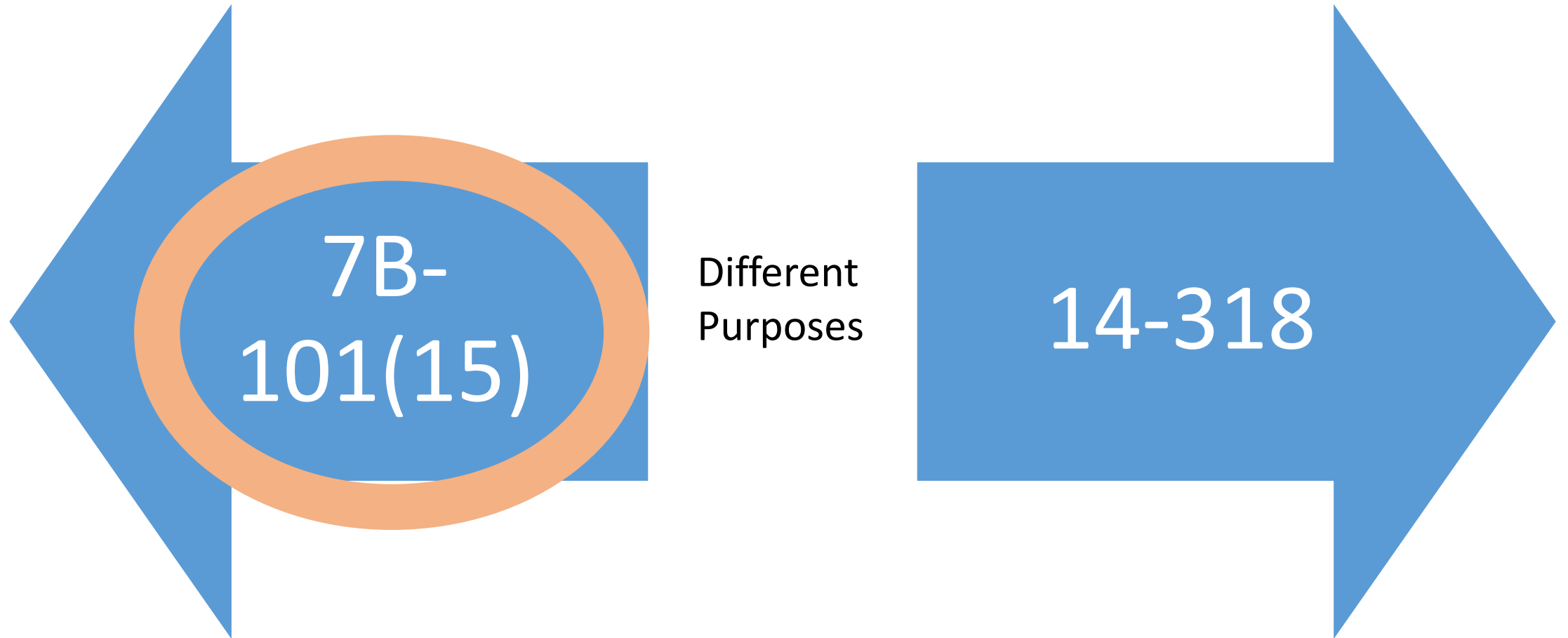
In re M.C. (p. 2)



In re D.S. (p. 3)



Definition of Neglect



Cease Reunification Efforts

In re L.N.H. (p.7)

G.S. 7B-901(c) requires written findings

Must explain “aggravating circumstances”

7B-901(c)(1)f – any other act, practice, or conduct that increases the enormity or added to the injurious consequences of the abuse or neglect

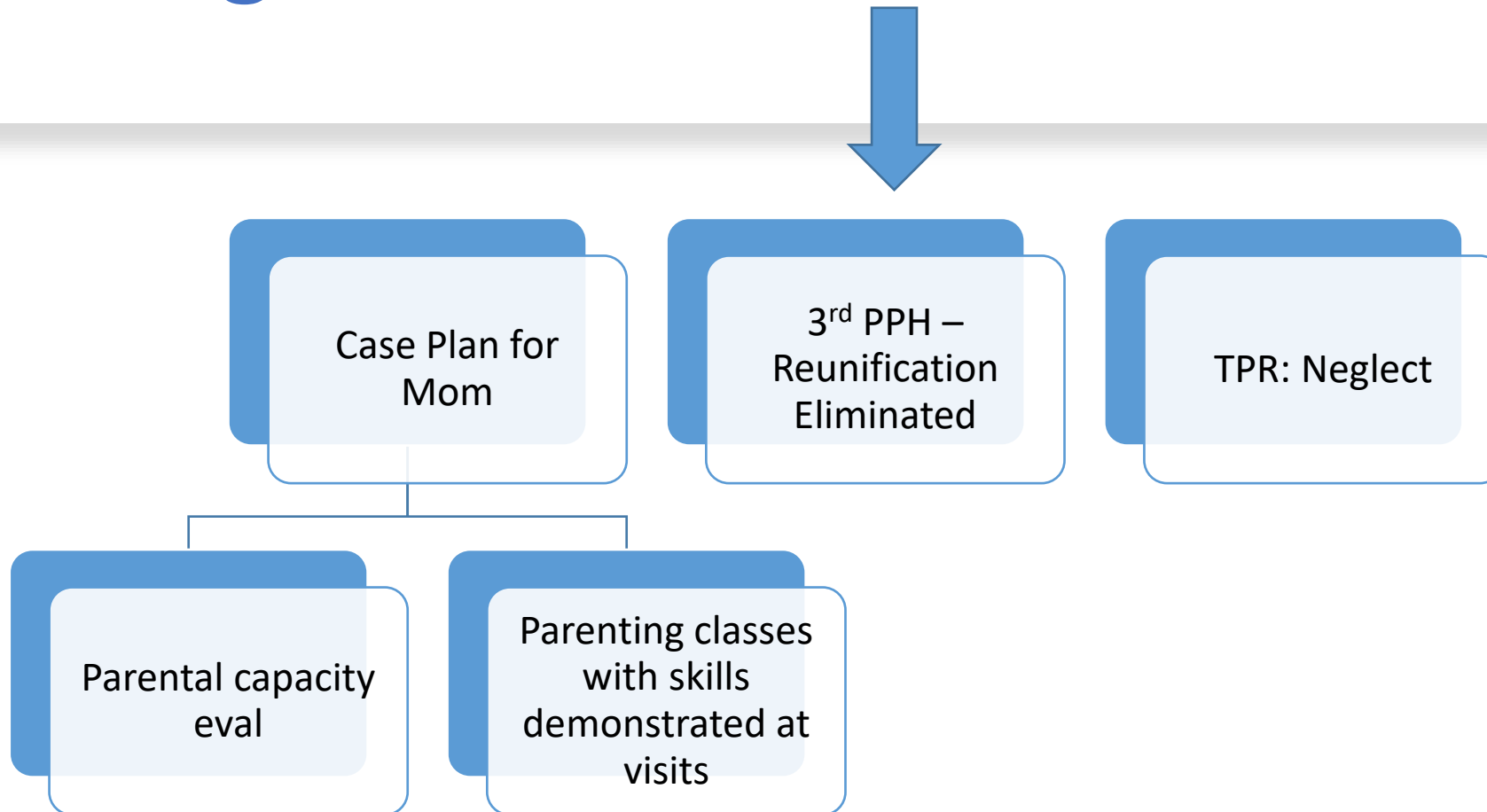


Eliminate Reunification

In re M.T. (p. 10)

- Adjudicated A/N/D (infant); neglected (sibling)
- Nonaccidental injuries, no explanation, sole care of parents
- Dad pleads to child abuse charge; mom's charged dismissed

Case Progresses



Lack of Explanation for Injuries

- Mom completes services
- Findings: Services did not address issues for coming into care, including lack of explanation

Is this a basis to eliminate reunification?



Rationale

- Compliance with case plan is not always sufficient to preserve parental rights
 - Parenting capacity – findings deficient
 - Parenting classes – findings deficient
- Need changed behaviors and acknowledge why children came into care
- Could permissibly determine both parents responsible directly or indirectly
 - In re Y.Y.E.T.

G.S. 7B-
906.2(b)

In re K.P.
(p. 12)

- Reunification shall be a primary or secondary plan unless the court
 - Made written findings under G.S. 7B-901(c) or - 906.1(d)(3),
 - The permanent plan has been achieved, **OR**
 - The court makes written findings that reunification efforts would be ...

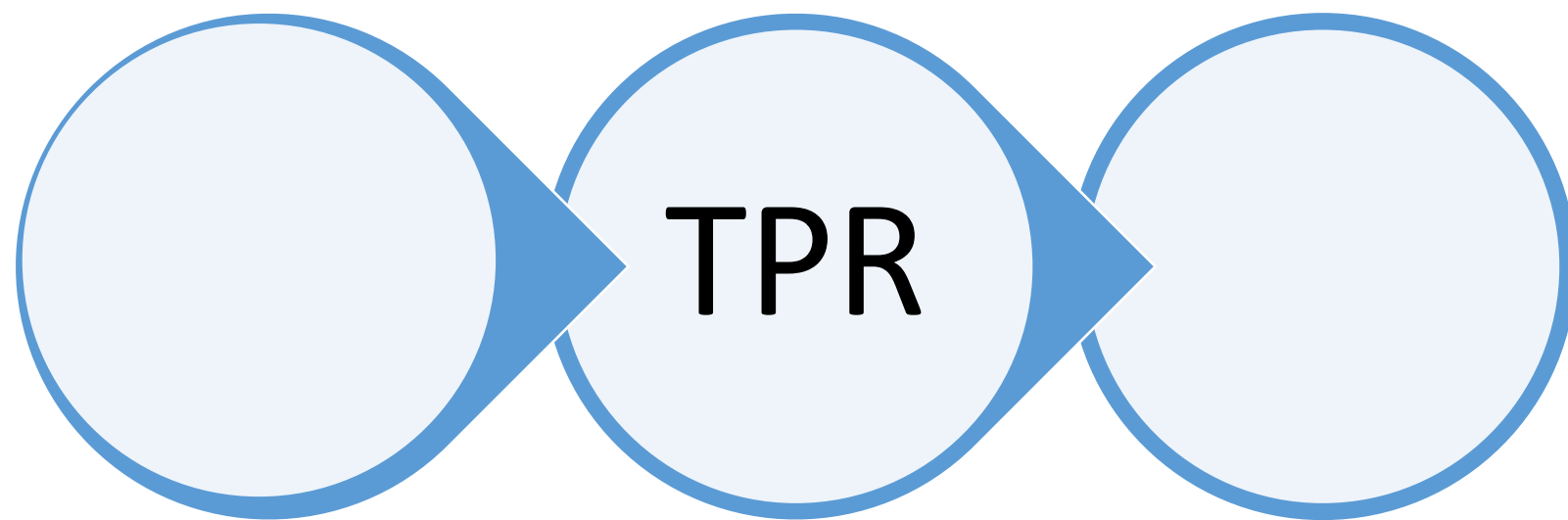
OR mean any one of the circumstances





Permanent plan achieved regardless of whether primary
or secondary





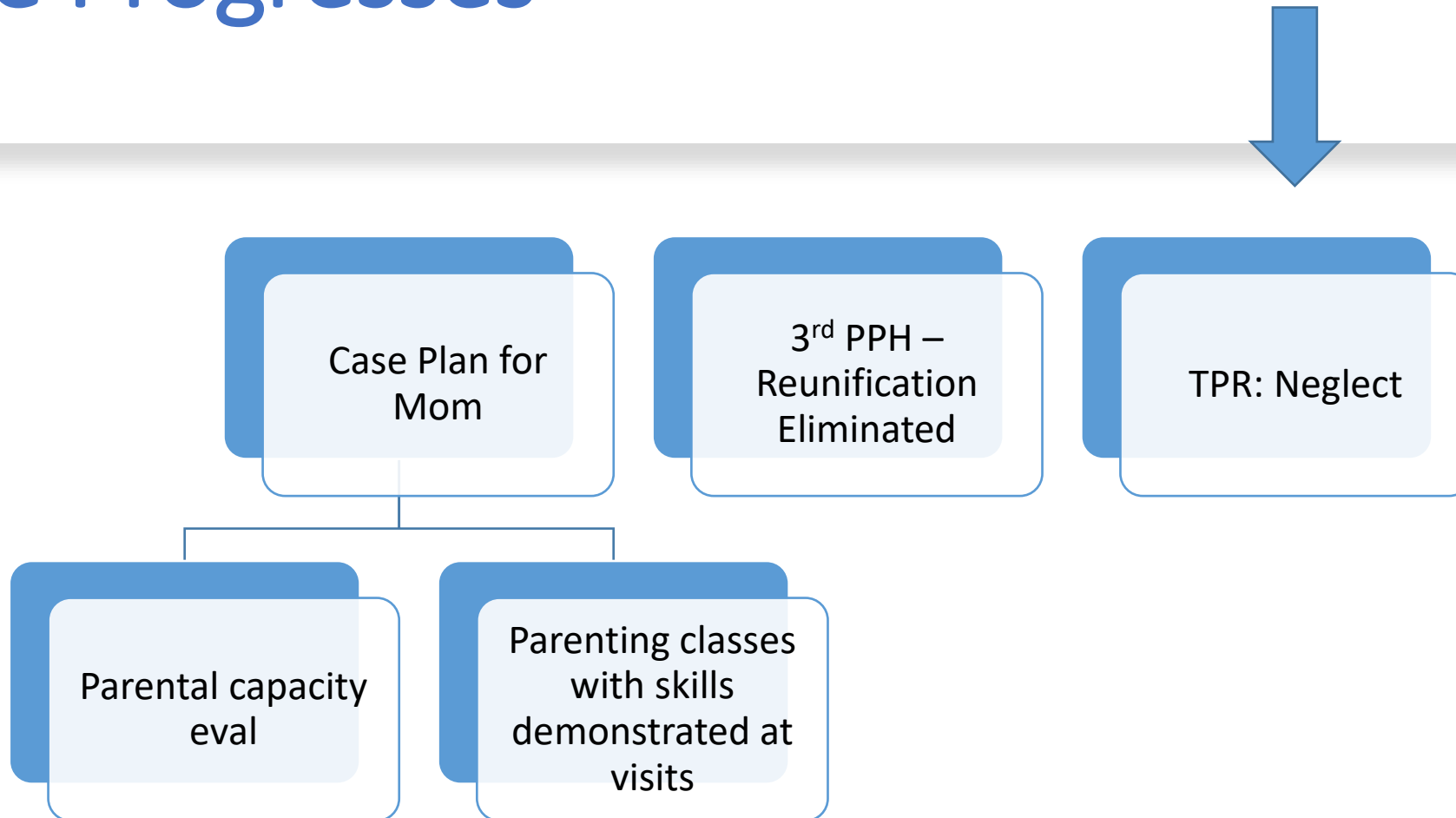


TPR: Neglect

In re M.T. (p. 15)

- Adjudicated A/N/D (infant); neglected (sibling)
- Nonaccidental injuries, no explanation, sole care of parents
- Dad pleads to child abuse charge; mom's charged dismissed

Case Progresses



Likelihood of Future Neglect



Mom completes services

- Findings:

- Explanations not credible
- Services did not address reason for removal

Amicus

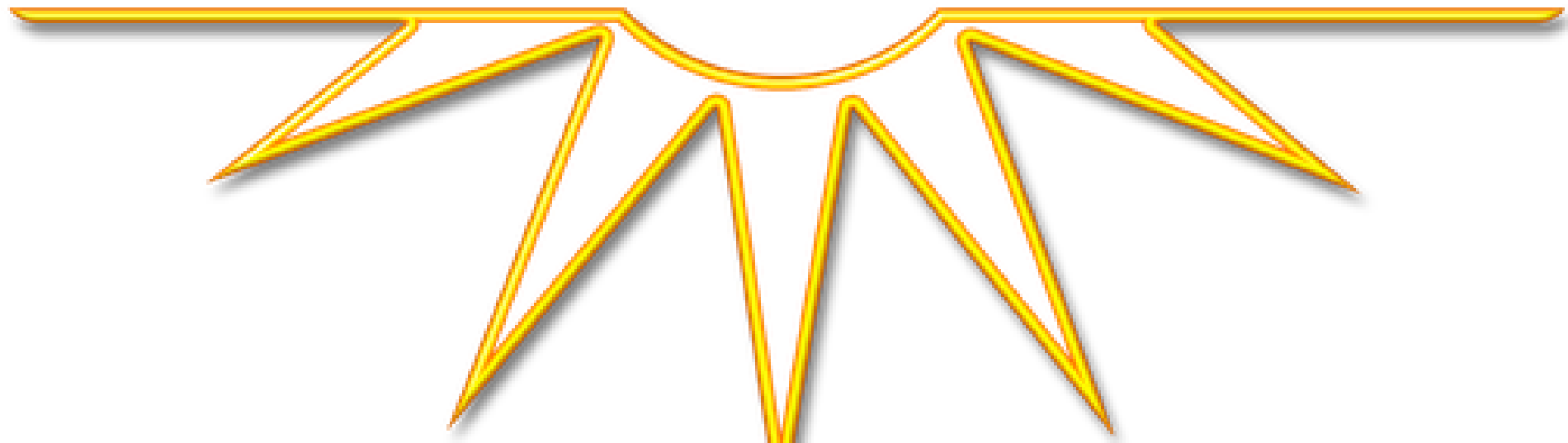
DV Coalition:
inference

ACLU:
constitutional
issues waived

NC Justice Center
and Community
Bail Fund re: pre-
trial incarceration



Best Interests



Expert Witness

In re M.T. (p. 17)

- Mother's Bond with Child
- Importance of maintaining family relationships, esp. for African-American families
- Child Welfare Policy
- Voir Dire: Found Irrelevant
 - Not all the records for case
 - Not familiar with NC DHHS practices

Was there an abuse of discretion?





Reasoned Decision

Trial court's responsibility to find facts based on evidence re: specific child and parents and determine best interests of child based on those facts and the law

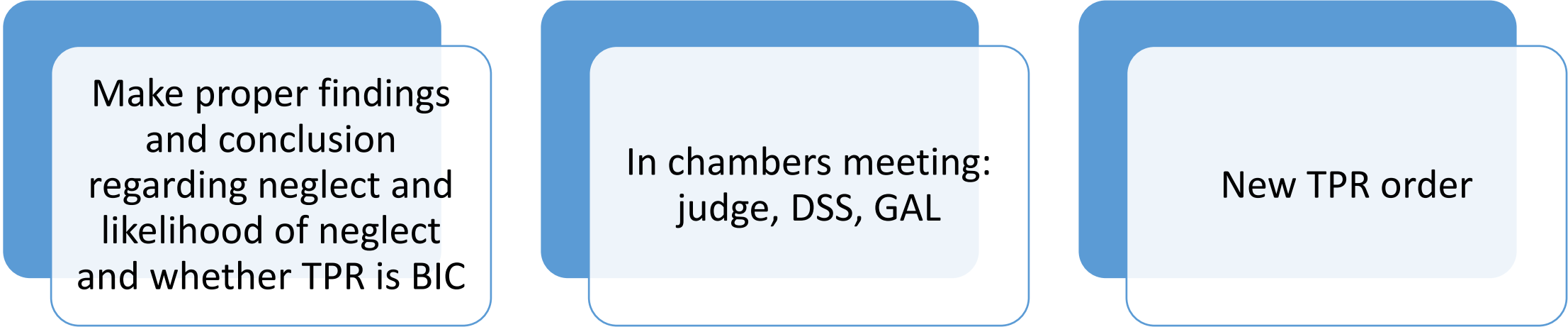
Amicus

- NC NAACP & ACLU: disproportionality in child welfare
- May be of great assistance to policy making branches of government
- No direct relevance to particular child or family



Appellate Remand

In re Z.J.W. (p. 13)



Make proper findings
and conclusion
regarding neglect and
likelihood of neglect
and whether TPR is BIC

In chambers meeting:
judge, DSS, GAL

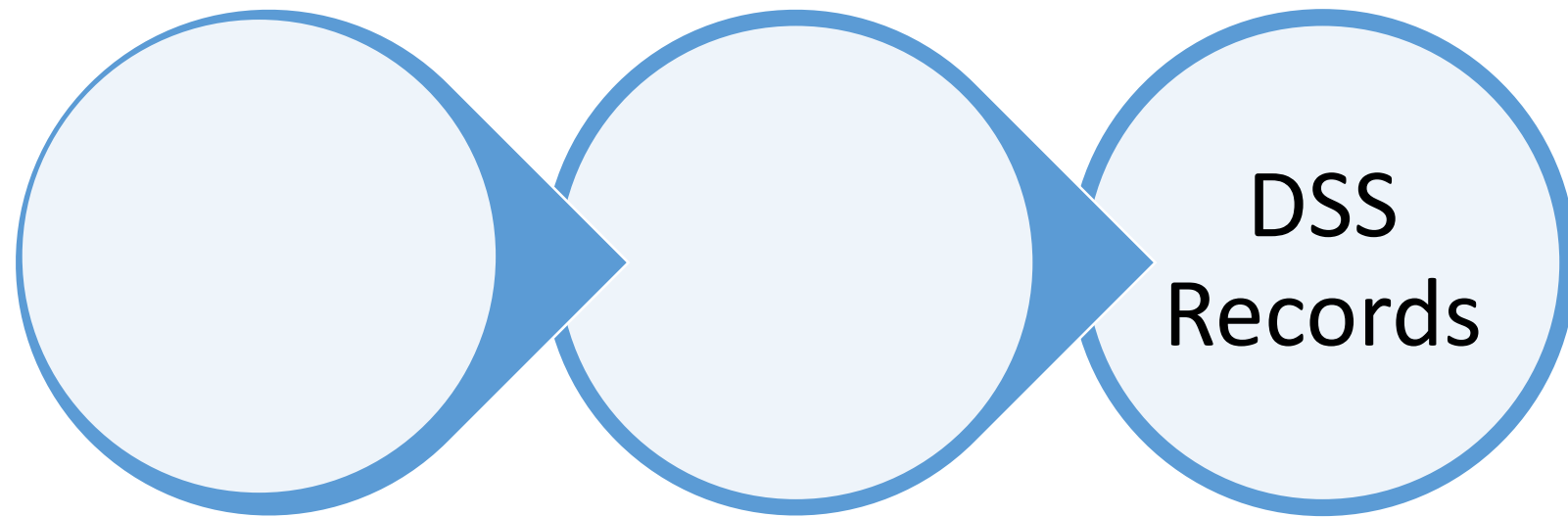
New TPR order

Is this proper for remand?

Fundamentally Unfair

- Misapprehension of Law
- Judicial Canon 3(A)(4)





Modification of Child Custody Order

Kozec Jr. v. Murphy (p. 19)

- G.S. 7B-302(a1)
 - relevant and necessary to trial
 - unavailable from another source
- Father sought admission, mother objected
- Sustained: court must have live testimony to authenticate



Is this correct?

Misapprehension of Law

- Rule of Evidence 902(4)
- Rules of Evidence 803(8)
- Court must determine if public record and one or both rules apply



Therapeutic
Dental