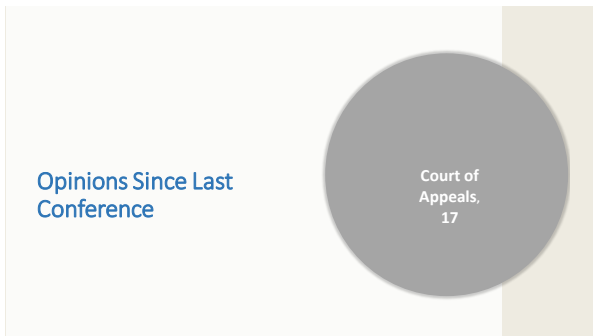


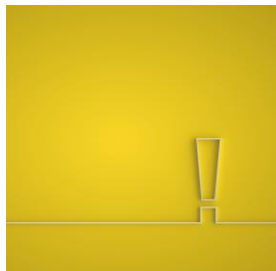
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S.L. 2023-134,
sec. 16.21(d)

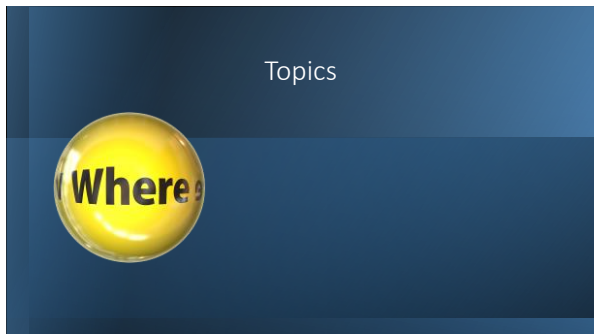
- Dissent ≠ Appeal of Right
- Appeals Oct. 3, 2023+



3



4



5

UCCJEA: Subject Matter Jurisdiction

In re N.B. (p.21)


UCCJEA: Transitioning from Temporary Emergency Jurisdiction to Home State Jurisdiction in A/N/D Cases
This entry was contributed by Sara DePasquale on July 25, 2023 at 12:35 pm and is filed under Child Welfare Law.


 The Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) governs a state's subject matter jurisdiction to hear child custody cases, including abuse, neglect, dependency (AND), and termination of parent rights (TPR). (See G.S. 50A-102(a); 50A-105). Without following the jurisdictional requirements of the UCCJEA, the court lacks subject matter jurisdiction. Any orders entered when a court lacks subject matter jurisdiction are void ab initio. [In re J.E.](#), 360 N.C. 588 (2006). I receive numerous inquiries about the UCCJEA in AND cases. A common question involves North Carolina's use of temporary emergency jurisdiction and whether it ever becomes initial custody jurisdiction when North Carolina becomes the juvenile's "home state" after the AND petition has been filed in district court. Earlier this month, the court of appeals answered this question when it published [In re J.B.](#) ____ N.C. App. ____ (July 5, 2023). This blog serves as a follow up to my [previous blog post](#) about temporary emergency jurisdiction under the UCCJEA.

6



Oct. - child moves
Jan. - DSS petition
March - Adj. Hrg.
July - Order entered

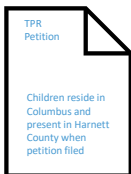
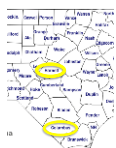


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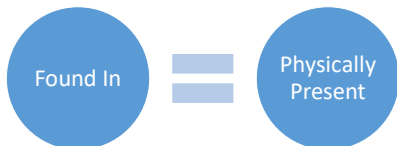
7B-1101: Jurisdiction

In re M.A.C. (p. 14)

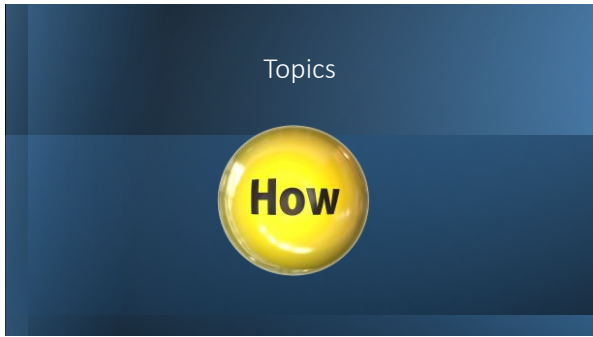
- "Found in"
- "Resides in"



8



9



10

Forfeiture of Counsel

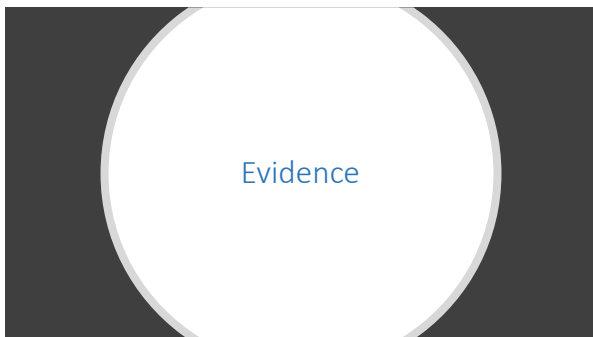
In re D.T.P. (p. 16)

Parents Forfeited Their Right to Court-Appointed Counsel in TPR: What is the Law for Attorney Representation of Parents in A/N/D and TPR Actions?

This entry was contributed by Sara DeFronzo on December 6, 2023 at 5:55 pm and is filed under Child Welfare Law.

North Carolina law requires that parents in abuse, neglect, dependency (A/N/D) and termination of parental rights (TPR) cases receive court-appointed counsel if they are indigent. G.S. 26-622, 26-1321.1. Parents also have a right to knowingly and voluntarily waive their statutory right to counsel. Id. The question of whether a parent may forfeit their right to counsel in a guardianship proceeding based on their behavior had not been answered until recently. Three appellate opinions address the issue and answer that question. Parents can and have forfeited their statutory right to court-appointed counsel. To get to forfeiture, you first need to understand the rules related to a parent's statutory right to court-appointed counsel.

11



12

Adjudication (In re A.J., p.2)

- Child's statements
 - Residual Hearsay Exception
 - Admission of a party opponent



13

Court Observation Irrelevant (p.5)

- Interaction between mother and child
- Adjudication: conditions alleged in petition



14

Oral Argument

FEBRUARY 2024						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

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Judicial Notice In re K.N. (p. 17)

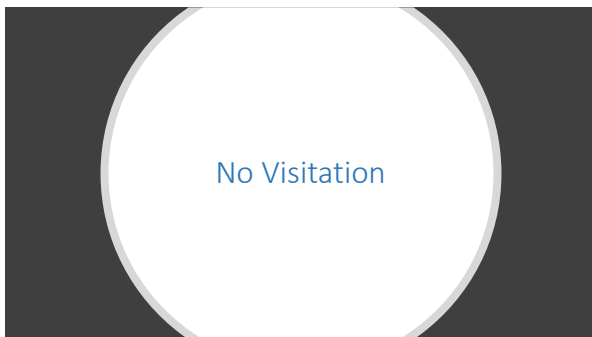
While a trial court "may not rely *solely*" on judicially-noticed evidence from prior hearings or rely on evidence from "prior dispositional orders, which have a lower standard of proof[,] a trial court may use testimony from former hearings to corroborate additional testimony received at the current adjudicatory hearing. *Id.* at

Quotes from
In re T.N.H., 372 N.C. 403 (2019)

16

The trial court received additional testimony to corroborate the judicially-noticed facts and made an independent determination regarding the new evidence presented at the hearings. *Id.* at 410, 831 S.E.2d at 60-61 ("The trial court's findings

17



18

No Visitation In re M.S. (Update)

- Initial Disposition
- Constitutional Rights**
- G.S. 7B-905.1: Forfeit/not in BIC
 - Case Plan
 - Exercise visits
 - DSS history/relinquish
 - Related issues of removal
- G.S.-7B-906.1(d),-(e)

19

In re A.J.L.H. (p.8) COA (on remand)

- **Factors:**
 - DSS history
 - Other children removed – is it related to this child's removal
 - Failed/minimally participate in case plan
 - Not consistently attend visits
 - Relinquishment
- **Constitutional Rights**
- *Each Child*



20

In re P.L.E. (p.11)

- **No findings in G.S. 7B-906.1 NEW**
- (d)(2): visitation that occurred, need to create, modify, or enforce
- (e): whether possible for juvenile to be placed with parent in next 6 months



21



Electronic Visits = No Visits
In re K.B. (p. 10)

- Forfeited rights
- Inappropriate under the circumstances
- NOT distance alone

22

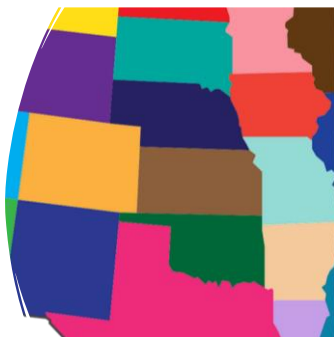


23

ICPC

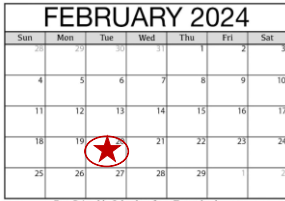
In re K.B. (p. 12)

- Home Study not required before rule out relative
- ICPC compliance when actually place
- DISSENT: 3 years



24

Oral Argument



25

Verification of Guardians In re P.L.E. (p. 13)



Financial Affidavit



Legal significance

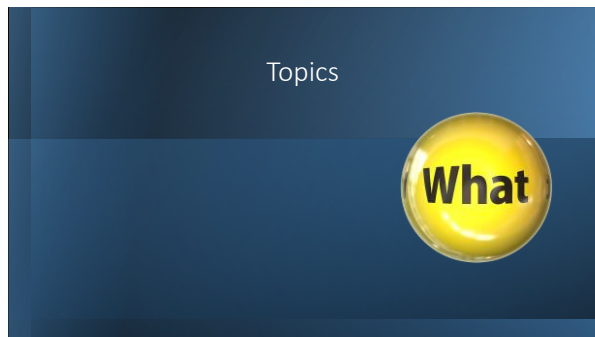


Testimony of one



Unsigned/not initialed

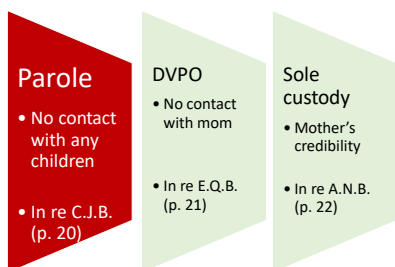
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29

TPR: Sexually Related Criminal Offense

In re N.J.R.C. (p. 23)

§ 14-202.1. Taking indecent liberties with children.

(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or over and at least five years older than the child in question, he either:

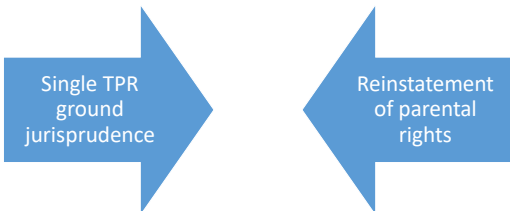
- (1) Willfully takes or attempts to take any contact, exposure or related liberties with any child of other sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or
- (2) Willfully contacts or attempts to contact any child or such's sex act upon or with the body or any part or member of the body of any child of other sex under the age of 16 years.

Purpose of arousing or gratifying sexual desire

§ 14-208.6(5): Definition, Sexually Violent Offense ... 14-202.1

30

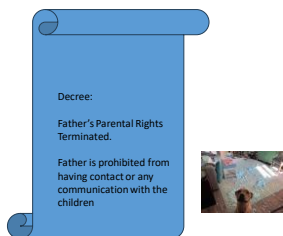
Opens the Door: In re E.Q.B. (p. 17)



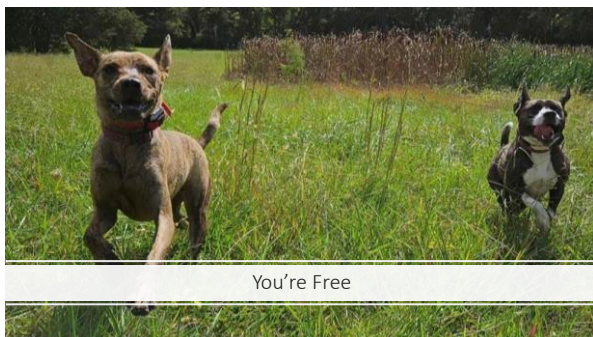
31

Disposition

In re E.Q.B. (p. 24)



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