



Adjudication

Juvenile Delinquency: A Course for
District Court Judges

November 9, 2021

1



Issue Spotting

2



Adjudication

Legal Framework

3

Purpose

Same as guilt phase of criminal trial

To determine whether juvenile is delinquent

G.S. 7B-2405

But, an adjudication that a juvenile is delinquent . . . **shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.** G.S. 7B-2412

4

The Constitutional Framework



5

Adjudication – Juvenile Rights

G.S. 7B-2405

Written notice of facts alleged in petition

Counsel



Confront and cross-examine witnesses

Privilege against self-incrimination

Discovery

All adult offender rights EXCEPT bail, self-representation, and jury trial

6

	
Adjudication	Preliminary Motions

7

Preliminary Motions: Petition


To Amend Petition

(7B-2400)

- Allowed, if doesn't change "nature of offense"
- Juvenile must be given "reasonable opportunity" to prepare defense.

➤ *In re Davis*, 114 N.C. App. 253 (changed offense from "burning a public bldg" to "burning personal prop.")

➤ *In re A.W.*, 189 N.C. App. 787 (changed offense from "injury to real property" to "injury to personal prop.")

Invalid Amendments 

8

Preliminary Motions: Petition

Valid Amendments

- Victim's name (adding "inc." or "corporation" in larceny petition, victim's last name, correcting spelling)
- Statutory citations
- Dates (only if time is not material)
- Missing elements (ownership and value of property in a larceny petition)

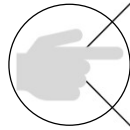
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Preliminary Motions: Lesser-Included Offenses

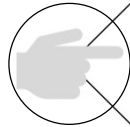
A petition charges juvenile with possession with intent to sell or distribute cocaine; evidence was possession of a single rock of crack cocaine and \$271.00 in cash. Does the petition need to be amended to support adjudication for simple possession?

10

Preliminary Motions: Lesser-Included Offenses



No amendment needed if petition contains all essential elements



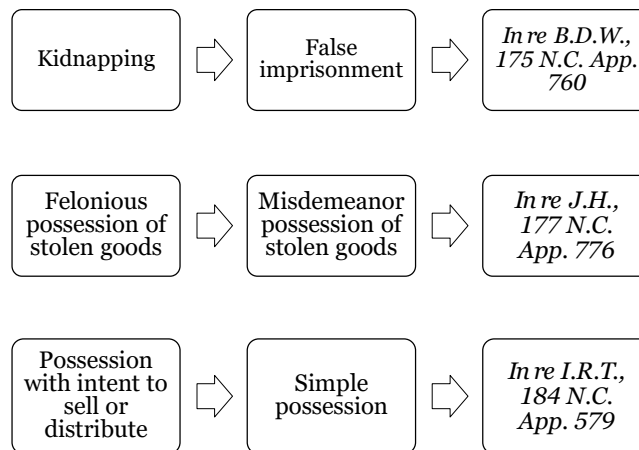
Original petition provides notice



Not a “different” offense

11

Preliminary Motions: Lesser-Included Offenses



12

Preliminary Motions: Continuance



In judge's discretion to continue for good cause to:

Receive additional evidence, reports, or assessments that the court has requested

Receive other information needed in the juvenile's best interests

Allow for a reasonable time to conduct expeditious discovery

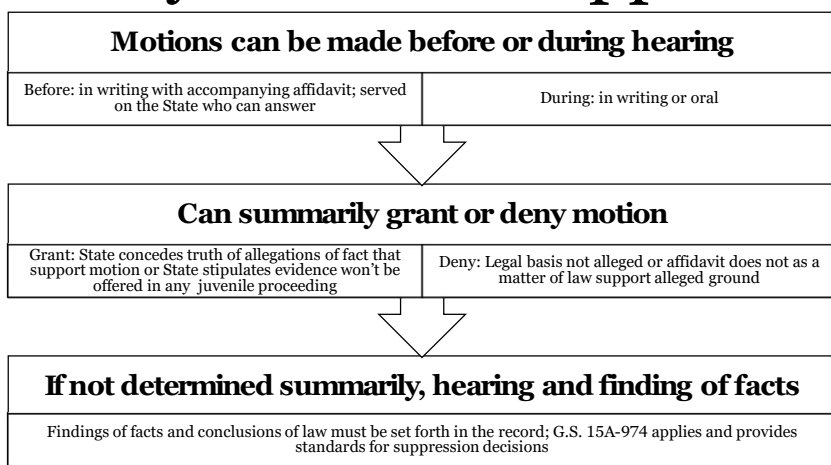
(G.S. 7B-2406)



Otherwise, only in extraordinary circumstances for proper administration of justice or in juvenile's best interests

13

Preliminary Motions: Suppression



G.S. 7B-2408.5

14



Admissibility of Custodial Statements

- 7B-2101(a) interrogation rights – 17 and under (*State v. Fincher*, 309 N.C. 1 (1983))
- Miranda plus right to have parent, guardian, or custodian present during questioning
- Can be waived by 16+ - knowing, willing, and understanding

15

The reasonable child standard and the custody analysis

J.D.B. v. North Carolina, 564 U.S. 261 (2011)

“child's age properly informs the *Miranda* custody analysis.”

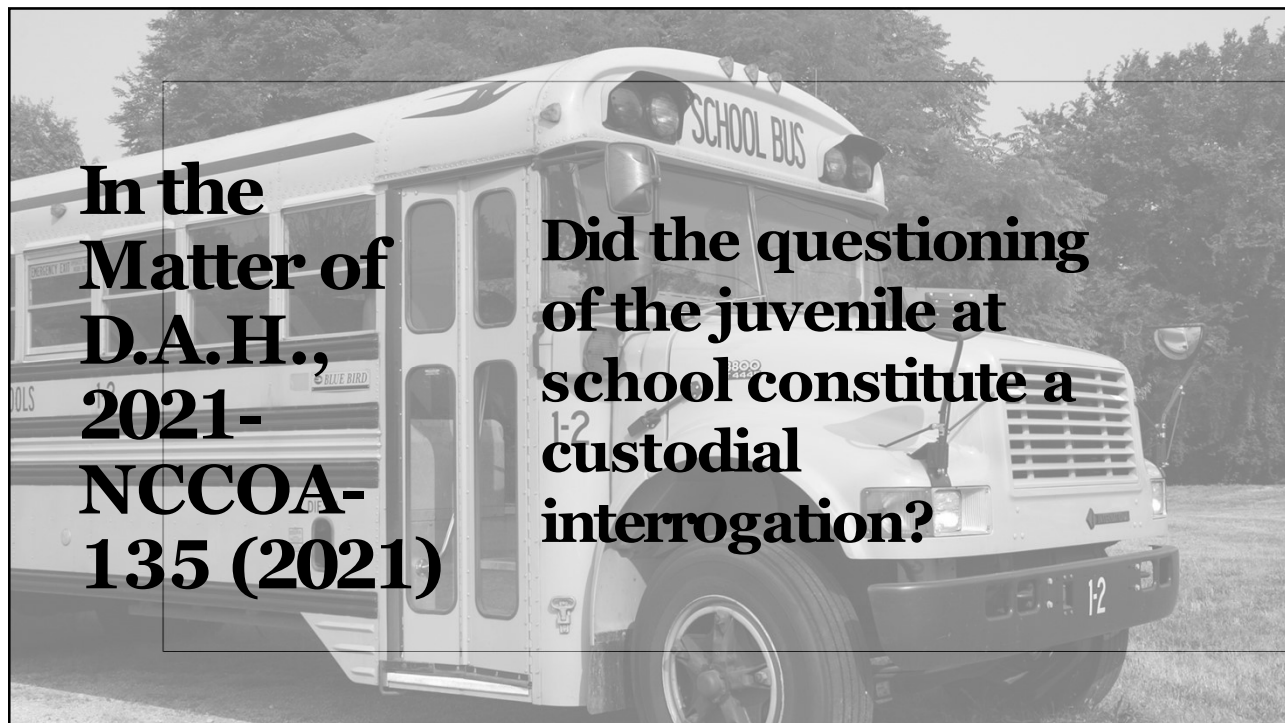
“so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test.”

16

What is
so
different
about
young
people?

TED

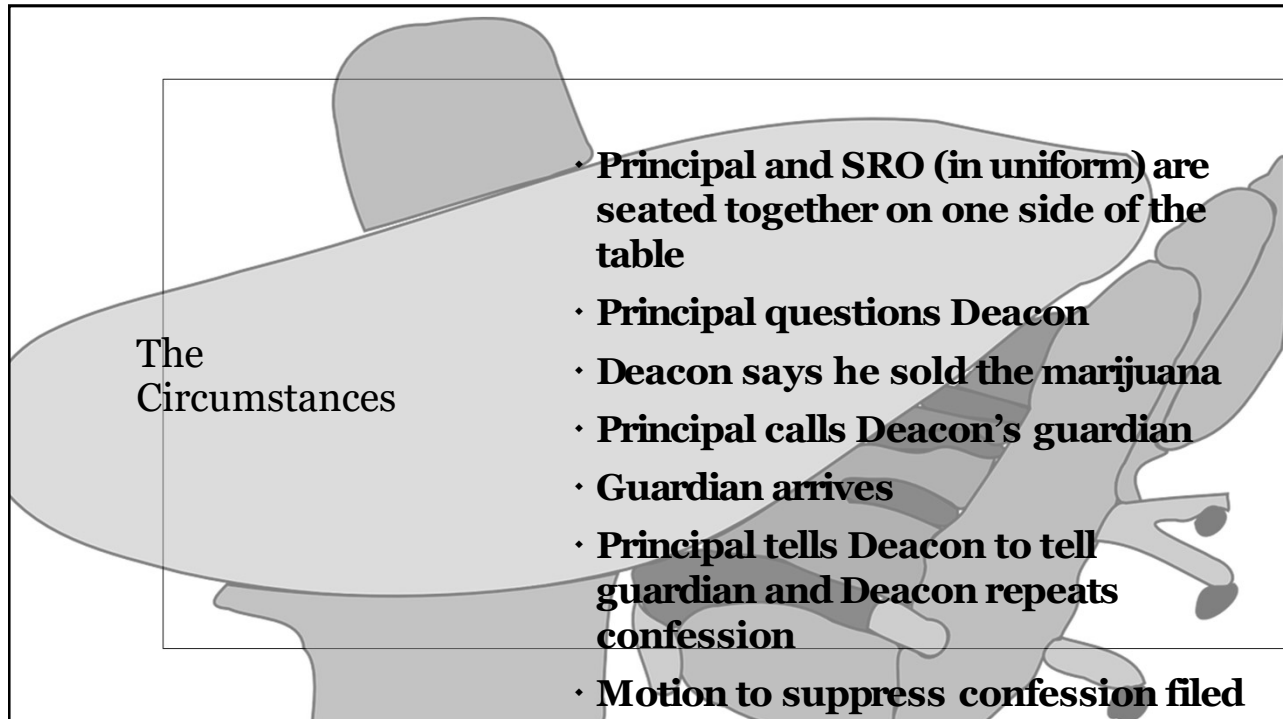
17



**In the
Matter of
D.A.H.,
2021-
NCCOA-
135 (2021)**

**Did the questioning
of the juvenile at
school constitute a
custodial
interrogation?**

18



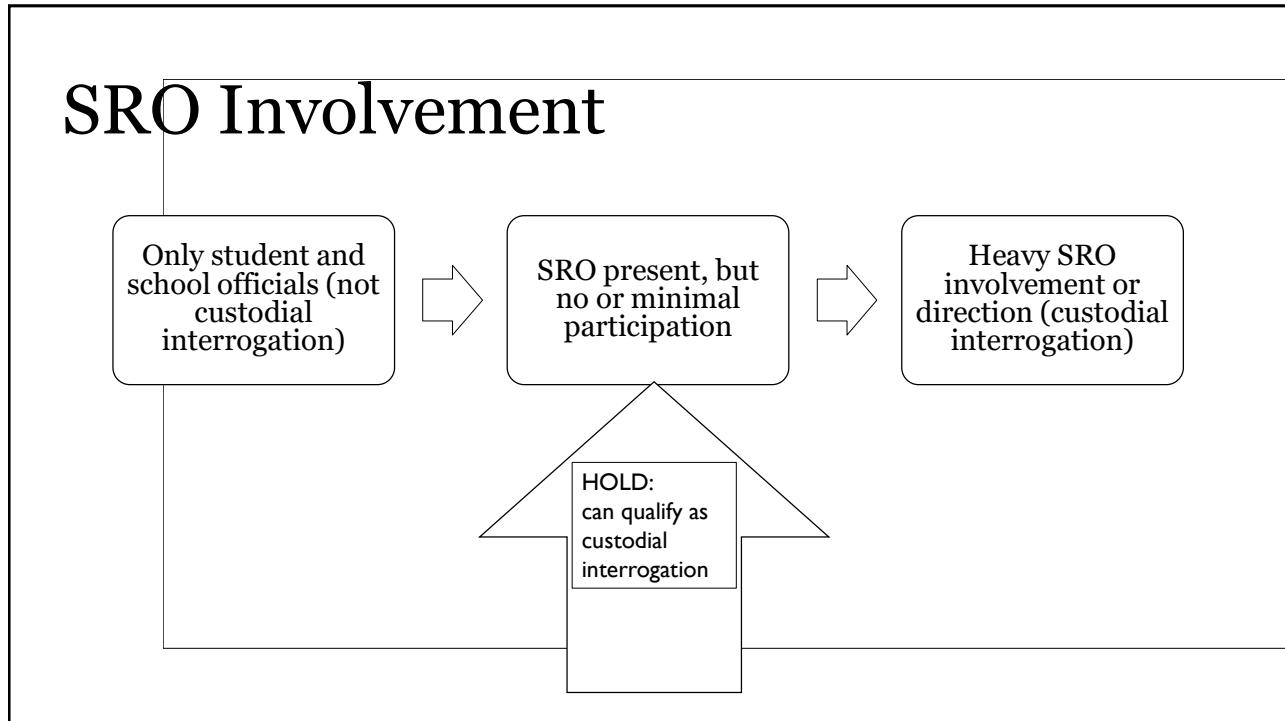
The
Circumstances

- **Principal and SRO (in uniform) are seated together on one side of the table**
- **Principal questions Deacon**
- **Deacon says he sold the marijuana**
- **Principal calls Deacon's guardian**
- **Guardian arrives**
- **Principal tells Deacon to tell guardian and Deacon repeats confession**
- **Motion to suppress confession filed**

19

“As the United States Supreme Court recognized in *J.D.B.*, the Fifth Amendment requires that minors under criminal investigation be protected against making coerced, inculpatory statements, even when—and perhaps, in some cases, particularly because—they are on school property. *J.D.B.*, 564 U.S. at 275. Increased cooperation between educators and law enforcement cannot allow the creation of situations where no *Miranda* warnings are required just because a student is on school property.” (¶ 35)

20



21



22

Factors Most Relevant in Determining Custody in Context of Schoolhouse Interview

- (1) traditional indicia of arrest;
- (2) the location of the interview;
- (3) the length of the interview;
- (4) the student's age;
- (5) what the student is told about the interview;
- (6) the people present during the interview; and,
- (7) the purposes of the questioning.

23

Factors Most Relevant in Determining Interrogation in Context of Schoolhouse Interview

- (1) the nature of the questions asked (interrogative or mandatory);
- (2) the willingness of the juvenile's responses;
- (3) the extent of the SRO's involvement;


24

Would a Reasonable
13-Year-Old Have
Felt Free to Leave?

A large, grey, stylized icon of a hand with the thumb pointing downwards, indicating a negative or disapproving response.

25

Was the questioning of a
nature that the two authority
figures should have known
was likely to elicit an
incriminating response?

A large, grey, stylized icon of a hand with the thumb pointing upwards, indicating a positive or approving response.

26

**Deacon's confession was the product of a custodial
interrogation**

Court erred in denying the motion to suppress

27



28

G.S. 7B-2101

(b) When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney.

29

G.S. 7B-2101

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

30

Circumstances of the waiver

- Audio recording of defendant's interview with Detective Kelly "demonstrates that defendant had the ability to understand Detective Kelly as she read him his juvenile rights
- Defendant placed initials on all parts of waiver form (was given English and Spanish versions)
- Detective Kelly's suppression hearing testimony sufficed to support the trial court's findings to the effect that defendant understood Detective Kelly as she read his juvenile rights to him.
- Defendant's youth
- Request to call his mother
- The number of officers present during the interrogation
- Misleading statements made to defendant by investigating officers
- Responses to Detective Kelly's questions regarding the extent to which he understood his rights were unclear
- Trial court failed to make any findings of fact concerning defendant's "experience, education, background, ... intelligence," and "capacity to understand the warnings given [to] him"

31

**State v.
saldierna,
371 N.C.
407
(2018)**

Waiver was done knowingly, willingly, and understandingly

- Express written waiver
- Advised of his rights in both written English and Spanish and in spoken English
- In all but two instances, defendant verbally affirmed that he understood
- Detective testimony that defendant understood
- No allegations of coercive police conduct or the use of improper interrogation techniques

32

Preliminary Motion Practice

How will you rule?

33



34

Timing



“within a reasonable time”

Although no specific guidelines are set for when an adjudicatory hearing must take place, N.C. Gen.Stat. § **7B-2403** mandates that an adjudicatory hearing “shall be held within a reasonable time[.]”... In the instant case...the delay between the filing of the petition and the hearing was approximately seven months...

There is nothing in the record to suggest that the delay between the filing of the petition and the hearing was unreasonable, especially in light of the fact that both continuances of the matter were admittedly for good cause.

In the Matter of J.C., 219 N.C.App. 647 (2012)

35

Procedure

Rules of evidence apply?

Yes ✓

Burden of Proof?

Beyond a
Reasonable Doubt

Combine with PC or
transfer hearing?

No –
must be separate ✗

36

Adjudication – Self-Incrimination

“[A]t the very least, some **colloquy** [is required] between the trial court and **juvenile** to **ensure** the juvenile **understands** his **right against self-incrimination** before choosing to testify at his adjudication hearing.” *In re J.R.V. 212 N.C.App. 205(2011)*

“Thus, failure to follow the statutory mandate when conducting an adjudication hearing constitutes reversible error unless proven to be harmless beyond a reasonable doubt.” *In re J.B. 820 S.E.2d 369 (2018)*

37

Juvenile Admissions

Address juvenile personally • Mandatory 6-part inquiry

G.S. 7B-2407

Determine any prior arrangement regarding admission • Must be an informed choice without any improper pressure

Factual basis for admission

• Statement of facts by prosecutor or defense, written statement of juvenile, or sworn testimony

⊗ Transcript of Admission form does not cure defect!

38

G.S. 7B-2407

The court may accept an admission from a juvenile only after first addressing the juvenile personally and:

1. Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
2. Determining that the juvenile understands the nature of the charge;
3. Informing the juvenile that the juvenile has a right to deny the allegations;
4. Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile;
5. Determining that the juvenile is satisfied with the juvenile's representation; and
6. Informing the juvenile of the most restrictive disposition on the charge

39

In re W.M.C.M.,
2021-NCCOA-139 (2021)

“[y]ou also understand
you have the right to
ask witnesses
questions during a
hearing?”

40

AOC-J-410

The above-named juvenile, having offered an admission admission pursuant to *Alford* decision, and being first duly sworn, gives the following answers:

- | | Answers |
|---|----------------|
| 1. Are you able to hear and understand me? | (1) _____ |
| 2. Do you understand that in a hearing you have the right to not say anything about your charge(s) and that any statement you make may be used as evidence against you? | (2) _____ |
| 3. What is the last grade you completed in school? | (3) _____ |
| 4. (a) Are you now using or consuming alcohol, drugs, medications, or any other substances? | (4a) _____ |
| (b) When was the last time you used any alcohol, drugs or medicine? | (4b) _____ |
| (c) Do you believe your mind is clear and do you understand what you are doing in this hearing? | (4c) _____ |
| 5. (a) Have the charges been explained to you by your lawyer? | (5a) _____ |
| (b) Do you understand what the charge(s) are? | (5b) _____ |
| (c) Do you understand every part of each charge? | (5c) _____ |
| 6. (a) Have you and your lawyer discussed the possible reasons why you might not be responsible for the charges? | (6a) _____ |
| (b) Are you satisfied with your lawyer's help in your case? | (6b) _____ |
| 7. (a) Do you understand that you have the right to deny the charges? | (7a) _____ |
| (b) Do you understand that you have the right to have your case heard by a judge in Juvenile Court? | (7b) _____ |
| (c) Do you understand that if your case is heard by a judge, you have the right to ask witnesses questions during the hearing? | (7c) _____ |
| (d) Do you understand that if you sign this admission, you give up these rights and other important constitutional rights related to a hearing in this court? | (7d) _____ |
| 8. Do you understand that you are admitting the following charge(s)? | (8) _____ |

41

“The statute does not require the exact statutory language to be used during the colloquy, but rather requires the court to orally and clearly inform the juvenile of his rights”

42

Invalid Admissions

In re J.A.G., 206 N.C. App. 318 (2010) (court omitted three of the six mandatory inquiries)

In re A.W., 182 N.C. App. 159 (2007) (court omitted two of the six mandatory inquiries)

In re N.L.G., 2021-NCCOA-247 (2021) (court did not make any of the required inquiries)

43

Insufficient Factual Basis

In re N.J., 752 S.E.2d 255 (2013) (unpublished)

- vacated admission to PWISD b/c no factual basis for element of intent to sell or deliver

In re D.C., 191 N.C. App. 246 (2008)

- vacated admission to felony larceny b/c no factual basis for value of stolen truck

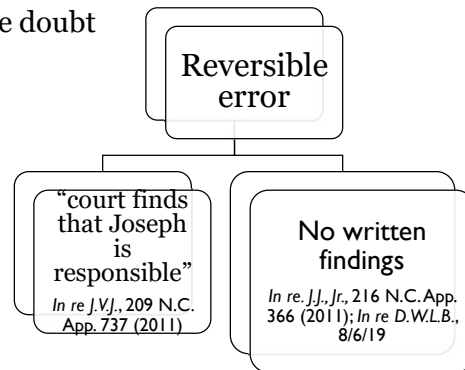
44

Adjudication Orders

Required written findings:

- Allegations proven beyond a reasonable doubt
- Offense date
- Misdemeanor or felony classification
- Date of adjudication

G.S. 7B-2411



45

Adjudication Orders

- Delineation of evidence supporting each element of offense NOT required (*In re K.M.M., 242 N.C.App. 25 (2015)*)

“[t]hat on or about the date of 10–16–2013, the juvenile did unlawfully and willfully steal, take, and carry away a White Apple [iP]hone with a pink and gray otter box case, the personal property of [Ms.] Nguyen having a value of \$300.00”

Findings may be included in an attachment

46

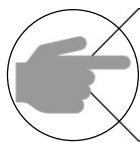
Direct Contempt by a Juvenile

All of the following must be true:

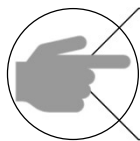
- Act was committed w/n sight or hearing of a judge;
- In or near courtroom while court was in session; and
- Was likely to interrupt or interfere with court session

47

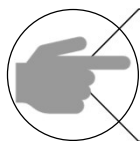
Direct Contempt by a Juvenile



Must provide summary notice & opportunity to respond



Appoint attorney (if juvenile doesn't have one)



Find facts to support summary response

- must be established beyond a reasonable doubt

G.S. 5A-31(b), 5A-32

48

Indirect Contempt by Juvenile

- Indirect contempt is a delinquent act
 - *See* G.S. 5A-31, -33 and G.S. 7B-1501(7)
 - *i.e.*, requires complaint, intake, and petition
- *E.g.*, willful disobedience with a court order
- May not be punished summarily