

Contents

Abuse, Neglect, Dependency	1
Adjudication	1
Evidence; Use of stipulations against objecting party	1
Neglect; Abuse of sibling in the home; Risk of future neglect	2
Permanent Plan.....	3
Custody; 7B-906.1(j) verifications.....	3
Visitation	5
Improper delegation of judicial authority; Ch 50 order via 7B-911; ADA Claim	5
Terminate Jurisdiction	5
Chapter 50 transfer; Findings	5
Appeal	6
Limits on role of appellate court; Preservation of issues required.....	6

Abuse, Neglect, Dependency

Adjudication

Evidence; Use of stipulations against objecting party

[In re T.C.](#), ___ N.C. App. ___ (July 2, 2025)

Held: Vacated and Remanded

- **Facts:** Mother appeals the adjudication of Mother and Father’s two children as abused and neglected. At the adjudication hearing Father stipulated to twenty-three allegations, the majority of which concerned Mother’s alleged conduct giving rise to the petitions. The stipulation was signed by Father, Father’s counsel, DSS and the GAL. Mother did not sign the stipulation and her attorney objected to the stipulation and expressed Mother’s desire to present evidence on the merits of the case. DSS argued the stipulation was sufficient to prove the facts for adjudication, over Mother’s objection, since Father had knowledge of the facts alleged. The court accepted the stipulation, noted Mother’s objection, and concluded the children were abused and neglected based solely on the stipulation. After disposition, where the court granted Father sole custody of the children and converted the matter into a GS Chapter 50 custody order, Mother appealed.
- Appellate courts review abuse and neglect adjudications to determine “whether the trial court’s findings of fact are supported by ‘clear and convincing evidence.’ ” Sl. Op. at 11 (citation omitted). The findings must then “support the trial court’s conclusion[s] of law.” Sl. Op. at 11 (citation omitted). Conclusions of law are reviewed de novo.
- G.S. 7B-807 “allows factual stipulations made by a party to be used in support of an adjudication.” Sl. Op. at 12 (citation omitted). “A record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral

statement of agreement from each party stipulating to them.” G.S. 7B-807(a). “[A] stipulation by one respondent parent may not bind another respondent parent who is not a party to the stipulation and objects to its use.” Sl. Op. at 13 (adopting the reasoning stated in *In re E.P.-L.M.*, 272 N.C. App. 585, 605 (2020) (Murphy, J. concurring), holding that “[s]tipulations do not extend beyond what was agreed to, and do not extend to parties who did not agree to them either.”)

- The trial court’s findings of fact are not supported by clear and convincing evidence and therefore its conclusions of law are not supported. Mother did not agree to or sign the stipulation, specifically objected to the trial court accepting the stipulation as evidence, and argued to present evidence on the merits of the case. The trial court’s findings recite the stipulated facts concerning Mother’s conduct alleged in the petitions. The trial court received no other evidence at the adjudication hearing. The stipulation did not extend to Mother and therefore was not competent evidence to establish the findings of fact. Adopting the statement from the concurring opinion in *In re E.P.-L.M.*, the court of appeals held that “[u]sing the ‘stipulation’ here as evidence against Mother despite her not being a party to it was improper, and the trial court erred in considering the ‘stipulation’ as evidence against her.” Sl. Op. at 17, citing *In re E.P.-L.M.*, 272 N.C. App. at 608.
- Arguments that Mother did not preserve the issue are “entirely unsupported and border on frivolous” and are unappreciated. Sl. Op. at 9.
- The adjudication and disposition orders are vacated and the matter is remanded to the trial court to hold an adjudicatory hearing where the parties can present evidence regarding the allegations in the petitions.

Neglect; Abuse of sibling in the home; Risk of future neglect

In re E.H., ___ N.C. ___ (August 22, 2025)

Held: Reversed in part

- Facts and procedural history: This case arises on discretionary review and writ of certiorari from a divided decision of the court of appeals, 294 N.C. App. 139 (2024) vacating in part and remanding the trial court’s adjudication of one of two children. The PDR was granted to reaffirm supreme court precedent. The court of appeals affirmed the adjudication of the younger child as abused and neglected based on the three-week-old suffering several nonaccidental acute bone fractures while in the exclusive care of Mother and Father for which the parents denied any trauma or incident had occurred to cause the serious injuries and offered no explanation beyond that they heard a “pop” during a diaper change. Without a plausible explanation or accepting responsibility for the infant’s serious injuries, the trial court rendered the parents’ home “an injurious environment for any juvenile” and adjudicated the infant’s 4-year-old older brother as neglected. Sl. Op. at 5. The court of appeals vacated the sibling’s neglect adjudication, holding the trial court relied solely on the abuse or neglect of the younger sibling and failed to make sufficient findings regarding either abuse of the older child or the probability of future neglect of the older child.
- 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.
- A neglected juvenile is one whose parent “does not provide proper care, supervision, or discipline” or “creates or allows to be created a living environment that is injurious to the juvenile’s welfare.” G.S. 7B101(15)(a), (e). “[I]n determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile . . . lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.” Sl. Op. at 7, *quoting*

G.S. 7B-101(15) (emphasis in original). Appellate precedent holds that while a neglect adjudication cannot be based solely upon the abuse or neglect of another child in the home, other factors surrounding the abuse itself can indicate other children in the home could face similar harm and support a conclusion of neglect. “[W]hen another child in the same home has suffered some abuse or injury, the trial court should assess how and why the harm occurred, whether other children in the home could be subject to that same harm, and whether the parents display a willingness to ‘remedy the injurious environment’ that caused the harm so that it cannot occur again.” Sl. Op. at 8, *quoting In re A.J.L.H.*, 384 N.C. 45, 56 (2023) and *In re A.W.*, 377 N.C. 238, 249 (2021). “Facts that can demonstrate a parent’s unwillingness to remedy the injurious environment include offering an ‘implausible explanation’ for the abuse of another child, ‘failing to acknowledge’ another child’s abuse, or ‘insisting that the parent did nothing wrong when the facts show the parent is responsible for the abuse.’ ” Sl. Op. at 8-9, *quoting In re A.J.L.H.*, 384 N.C. at 56 and *citing In re A.W.*, 377 N.C. at 248-49. The trial court is not required “to find a specific pattern of past abuse or specific facts that predict when and how future abuse might occur.” Sl. Op. at 10.

- The trial court’s adjudication of the older child as neglected was supported by adequate findings of fact which were supported by clear, cogent, and convincing evidence. Findings included that the older brother was four years old and a “similar ‘tender’ age to his younger sibling”, that Mother and Father did not provide “any plausible explanation” for the infant’s injuries, that Mother and Father were “responsible” for the infant’s injuries, and that Mother and Father “continue to maintain that they were not responsible for these injuries, and as such, renders their home an injurious environment for any juvenile as there are no reasonable means to protect the juvenile from a similar injury occurring in the home.” Sl. Op. at 10. These findings are sufficient to support the conclusion of neglect under supreme court precedent reaffirmed in recent decisions: *In re J.A.M.*, 372 N.C. 1 (2019), *In re D.W.P.*, 373 N.C. 327 (2020), *In re A.W.*, 377 N.C. 238 (2021), and *In re A.J.L.H.*, 384 N.C. 45 (2023). While a trial court is not required to make a finding that there is an “unacceptable risk of similar abuse to other children in that same home in the future” based on these facts (noting a trial court could find that other children in the same home are not at risk of similar harm because of a large age difference), the trial court here properly found there was an unacceptable risk of similar abuse to the other child in the home based on the findings that the infant’s injuries were “non-confessed” and “unexplained”. Sl. Op. at 11, n.1.

Permanent Plan

Custody; 7B-906.1(j) verifications

In re A.J.J., ___ N.C. App. ___ (July 2, 2025)

Held: Affirmed in Part, Vacated in Part, Remanded in Part

- Facts: The child at issue was adjudicated neglected and dependent. During permanency planning the trial court made findings of Mother’s failure to make progress on her case plan, ceased reunification efforts with Mother, and placed the child with the child’s paternal uncle and his girlfriend. At the final permanency planning hearing, the trial court ordered legal and physical custody of the child to the paternal uncle and his girlfriend (custodians), terminated jurisdiction, and transferred the proceeding to a Chapter 50 action. Mother appeals the permanency planning order, arguing the trial court failed to make the required verifications under G.S. 7B-906.1(j).

- Permanency planning orders are reviewed to determine “whether there is competent evidence in the record to support the findings [of fact] and whether the findings support the conclusions of law.” Sl. Op. at 7 (citation omitted). A trial court can consider any evidence at a permanency planning hearing it finds to be “relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.” Sl. Op. at 9 (citation omitted). Conclusions of law are reviewed de novo.
- G.S. 7B-906.1(j) requires that a trial court awarding custody to a non-parent must verify the proposed custodian (1) “understands the legal significance of the placement or appointment” and (2) “will have adequate resources to care appropriately for the juvenile.” “The fact that the prospective custodian . . . has provided stable placement for the juvenile for at least six consecutive months is evidence that the person has adequate resources[,]” but “does not *per se* compel a conclusion that the ‘person receiving custody . . . understands the legal significance of the placement.’ ” G.S. 7B-906.1(j); Sl. Op. at 10 (citation omitted). Specific findings are not required but the record “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 8 (citation omitted). Permanent custody orders that fail to contain the required verification must be vacated and remanded.
- The evidence shows the trial court verified that the custodians understood the legal significance of being awarded custody of the child, including social worker testimony, testimony of one of the custodians, and the GAL and DSS reports. “Evidence that a custodian understands the legal significance of the placement may consist of ‘testimony from the potential [custodian] of a desire to take [custody] of the child . . . and testimony from the social worker that the potential [custodian] was willing to assume legal [custody].’ ” Sl. Op. at 10 (citation omitted). Here, although the girlfriend did not testify, the uncle testified and spoke to the couple’s willingness and ability to care for the child. The social worker recommended placement with the custodians and testified that the couple contacted DSS to communicate their desire to be assessed for placement, the social worker discussed DSS’s recommendations for placement with the custodians prior to the final PP hearing, and that the couple agreed to DSS’s recommendations. Supreme Court precedent holds that “when awarding custody of a juvenile to a custodial couple, the testimony of one of the custodians – without the testimony of the other – is sufficient where the testifying custodian expresses the custodial couple understands the legal significance of the placement.” Sl. Op. at 11 (citation omitted). Here, the uncle testified that he and his girlfriend could continue to meet the child’s needs on a long-term basis, understood the recommendation by DSS, understood they would receive custody of the child; were willing and able to continue the child’s counseling sessions, and were working on the child progressing in school. In addition, the GAL report noted the custodians had been caring for the child’s medical and dental needs and had follow-up appointments scheduled for the child.
- The evidence shows the trial court verified the adequacy of the custodians’ resources to care for the child. The findings show the child had been living with the custodians for more than six months at the time of the final PP hearing. The uncle and social worker testified to the couple’s financial ability to meet the child’s needs, including medical needs, and described the child’s living space and food security at their home. Mother cites to precedent requiring evidence of income or employment. Those cases were decided before G.S. 7B-906.1(j) was amended (effective October 1, 2019) to state the fact that the prospective custodian or guardian has provided a stable placement for at least six consecutive months is evidence of their adequate resources. No evidence of the couple’s employment or income was presented or required where evidence in the record sufficiently demonstrates the custodians have provided a safe home for the child for more than six months. Additionally, evidence described the child’s living

space and showed that the custodians are providing for and are financially able to continue to provide for the child's medical needs.

Visitation

Improper delegation of judicial authority; Ch 50 order via 7B-911; ADA Claim

In re A.J.J., ___ N.C. App. ___ (July 2, 2025)

Held: Affirmed in Part, Vacated in Part, Remanded in Part

- Facts: The child at issue was adjudicated neglected and dependent. During permanency planning the child was placed with the child's paternal uncle and his girlfriend. Mother was living in Rocky Mount and the child in Greenville. The trial court ultimately granted legal and physical custody of the child to the uncle and his girlfriend (custodians), terminated jurisdiction, and transferred the case to a Chapter 50 proceeding. The trial court entered a Chapter 50 order that granted Mother weekly phone calls and monthly supervised visitation with the child at a location agreed upon by the custodians and Mother. The order granted the custodians discretion to transition to unsupervised visits as well as to cease visits if the visits or contact triggered regressive behavior in the child or 'causes discord between the [Custodians] that may lead to possible placement disruption.' Sl. Op. at 21. Mother appeals, arguing the trial court abused its discretion by granting the custodians the discretion to modify or cease visitation. Mother further argues the visitation order does not accommodate her physical disability under the Americans with Disabilities Act.
- Appellate courts review a trial court's order regarding visitation for an abuse of discretion.
- Because the order for visitation was included in the Ch. 50 order, the visitation provisions of G.S. 7B-905.1 do not apply. The trial court properly terminated jurisdiction in the Chapter 7B proceeding under G.S. 7B-911 and opened a new Chapter 50 civil custody case. Therefore, caselaw governing the award of visitation in civil custody orders applies. Caselaw under G.S. Chapters 7B and 50 "draw the same conclusion with respect to the trial court's improper delegation of authority to award visitation of a minor child." Sl. Op. at 20-21, n.5. The Chapter 50 order improperly delegates the judicial authority of modifying or ceasing visitation to the custodians.
- The visitation provisions of the Chapter 50 order are vacated and remanded.
- Mother waived her argument that the court should have considered her physical disability and apply the Americans with Disabilities Act to the visitation provision when addressing the location of the visits. "Claims that DSS violated the Americas with Disabilities Act must be asserted at the time the service plan is adopted to be preserved for appeal." Sl. Op. at 23 (citation omitted). Mother did not raise this argument at the hearing and cannot argue it for the first time on appeal.

Terminate Jurisdiction

Chapter 50 transfer; Findings

In re A.J.J., ___ N.C. App. ___ (July 2, 2025)

Held: Affirmed in Part, Vacated in Part, Remanded in Part

- Facts: The child at issue was adjudicated neglected and dependent. The trial court ultimately granted legal and physical custody of the child to the child's paternal uncle and girlfriend (custodians), terminated jurisdiction, and transferred the case to a Chapter 50 proceeding. Mother appeals, arguing the trial court erred in transferring the juvenile proceeding to a Chapter 50 action because (1) the court failed to make required findings under G.S. 7B-

911(c)(1)-(2) and G.S. 50-13.2(a) in the permanency planning order and Chapter 50 order and (2) the findings of fact are unsupported by the evidence, insufficient, and conclusory.

- Trial court orders are reviewed de novo for statutory compliance.
- G.S. 7B-911(c)(1) requires the trial court to “[m]ake findings and conclusions that support the entry of a custody order in an action under Chapter 50 . . .” G.S. 50-13.2 requires the trial court to award custody “to such person . . . as will promote the interest and welfare of the child.” Sl. Op. at 25. The trial court must consider and make written findings of relevant factors under G.S. 50-13.2(a) to support its custody determination. “These findings may concern physical, mental, or financial fitness or any other factors brought out by the evidence and relevant to the issue of the welfare of the child.” Sl. Op. at 26 (citation omitted). Findings may not be conclusory and failure to include “detailed findings of fact from which an appellate court can determine that the order is in the best interests of the child . . .” is a fatal defect. *Id.*
 - The trial court’s findings support its conclusion that custody with the uncle and his girlfriend were in the child’s best interests. The findings were supported by competent evidence and included Mother’s mental health history, lack of suitable housing, failure to make progress on her case plan and consistently visit with the child; the custodians’ ability and desire to provide for the child; and the child’s desire to remain in the placement.
- G.S. 7B-911(c)(2) requires the trial court to make a finding that “there is not a need for continued State intervention on behalf of the juvenile through a juvenile court proceeding.” The court is not required to use the exact statutory language.
 - The trial court’s PPO findings satisfy G.S. 7B-911(c)(2)(a) regarding State intervention. The trial court ultimately found that there is no longer a need for the juvenile court or DSS to remain involved with the family, ceased reasonable efforts toward reunification, and noted that the child’s plan of custody had been achieved. The court ordered its jurisdiction terminated, entered a separate Ch. 50 custody order, and released the attorneys and child’s GAL. The trial court’s finding that state intervention is not required is supported by the record, which addressed the custodians and Mother working together regarding visitation and DSS testifying there was no reason for the court to remain involved.

Appeal

Limits on role of appellate court; Preservation of issues required

In re E.H., ___ N.C. ___ (August 22, 2025)

Held: Reversed in part

- Facts and procedural history: This case arises on discretionary review and on writ of certiorari from the divided decision of the court of appeals, 294 N.C. App. 139 (2024), regarding the adjudication of one of two children. The court of appeals affirmed the trial court’s adjudication of the younger child as abused and neglected based on the infant suffering serious, nonaccidental injuries while in the exclusive care of his parents for which the parents offered no plausible explanation. Based on these facts, the trial court rendered the parents’ home “an injurious environment for any juvenile” and adjudicated the infant’s 4-year-old brother neglected. Sl. Op. at 5. The court of appeals vacated the trial court’s adjudication of the older brother, holding the court failed to make sufficient findings regarding either abuse of the older child or the probability of future neglect of the older child and instructed the trial court on remand to make additional findings “in the absence of a compelled confession by either parent

or violation of the marital privilege”. 294 N.C. App. at 152. The supreme court reversed the portion of the court of appeals decision vacating the older child’s neglect adjudication, summarized separately. This summary addresses the supreme court’s discussion of appellate review.

- Rule 10 of Appellate Procedure provides that evidentiary privileges and constitutional claims not raised at the trial level are not preserved and waived for appellate review. It is “well-settled rule in juvenile cases that appellate courts ‘may not address an issue not raised or argued by the respondent’ for it is not the role of the appellate courts to create an appeal for an appellant.” Sl. Op. at 13 (citation omitted), *citing* N.C. R. APP. P. 28(b)(6). Here, the court of appeals raised unpreserved issues and is cautioned against continuing this practice.
- The supreme court rejected the court of appeals analysis of the issues of marital privilege and the constitutional rights of parents which were not raised or preserved by the parties at the trial court or argued on appeal. In vacating the adjudication of the older child as neglected, the court of appeals “asserted that the trial court’s order constituted an ‘ultimatum’ to ‘confess or lose your children’ that violated ‘marital privilege’ and the constitutional ‘presumption of fitness.’ ” Sl. Op. at 12. The supreme court warned that “[a]ddressing issues that the parties never raised, preserved, and asserted on appeal is harmful for several reasons.” Sl. Op. at 13. One of those reasons is risking “that the court is missing something and, as a result, is about to mess up the law.” Sl. Op. at 13. In demonstrating this risk of legal theories not having “been tested in the crucible of adversarial briefing”, the supreme court stated “the marital privilege does not apply in these juvenile proceedings.” Sl. Op. at 13 (citing G.S. 7B-310, 8-57.1).