

Child Welfare Case Update:

Supreme Court of North Carolina



N.C. District Court Judges' Conference

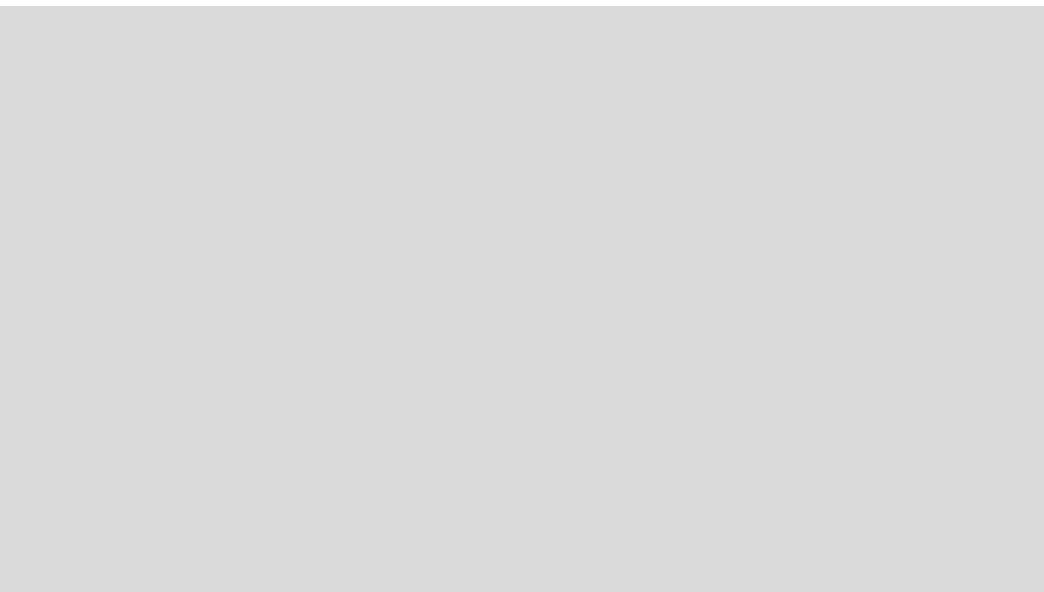
June 2025



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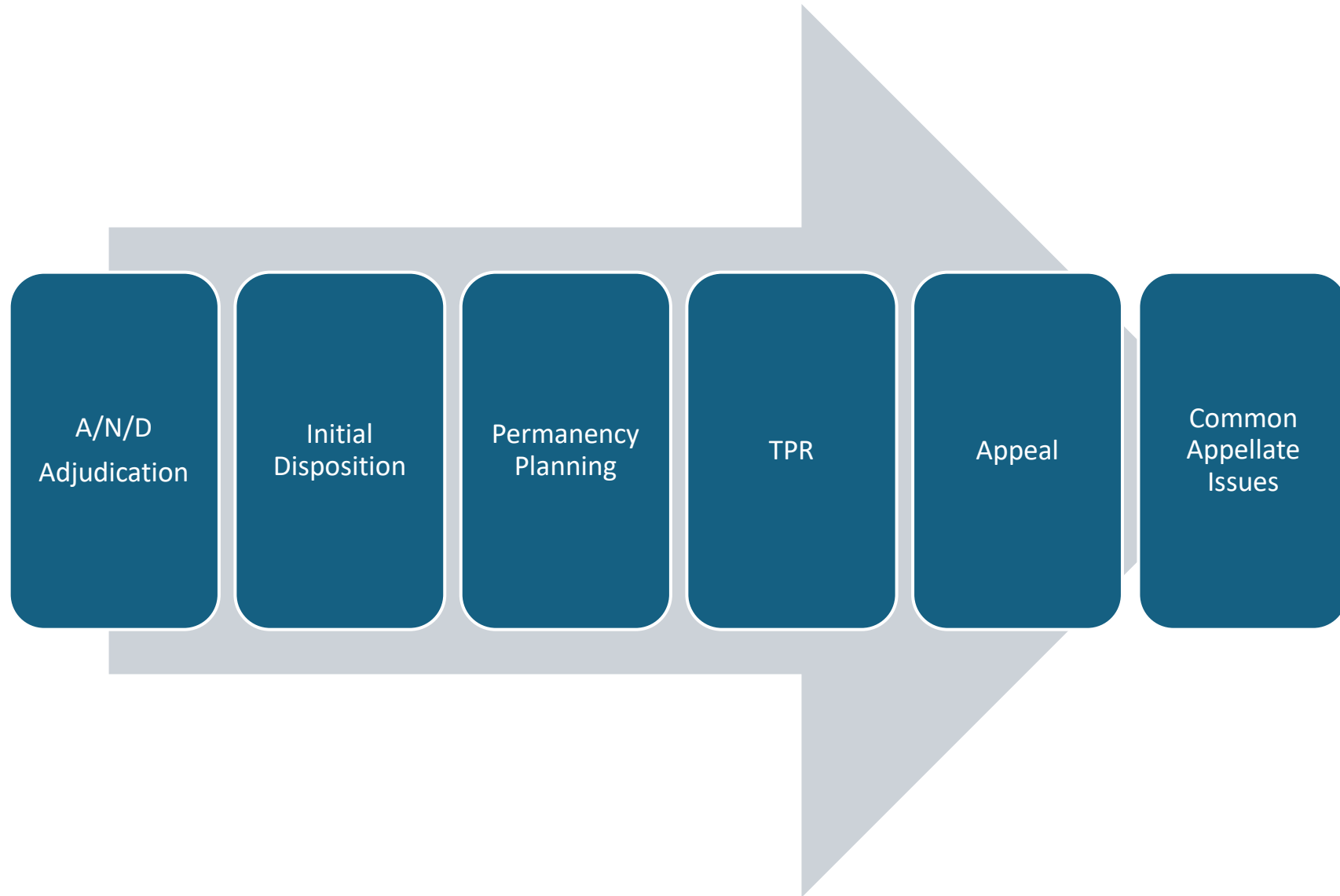


EPIC TRIP



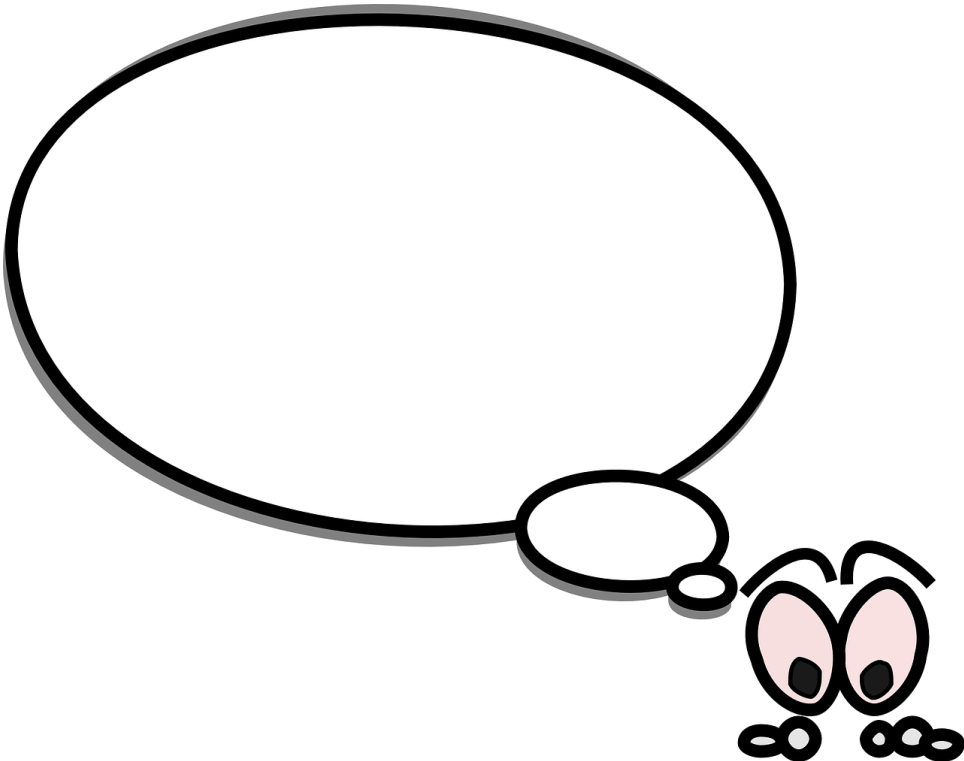
Case Update Journey





Adjudicatory Hearing: Evidence

In re N.N.
In re N.R.R.N.



STATE OF NORTH CAROLINA

County

File No.

In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name And Address Of Juvenile

Juvenile's Date Of BirthAgeRaceSex

Name Of Petitioner

JUVENILE PETITION
(ABUSE/NEGLECT/DEPENDENCY)

G.S. 7B-101, -400, -402

Condition Alleged
☐ Abused ☐ Neglected ☐ Dependent

Spoken Language Court Interpreter Needed For Any Party, Victim, Or Witness? (If Yes, identify person(s) and language(s). Interpreters provided for all court proceedings at no cost.)
☐ No ☐ Yes: (explain)

I have sufficient knowledge or information to believe that a case has arisen that invokes the juvenile jurisdiction of the court, and therefore allege that:
1. The juvenile named above resides in the district at the address shown above, was found in the district as alleged herein, or venue exists pursuant to G.S. 7B-400(a) or (b).
2. The information required by G.S. 50A-209 is set out in the Affidavit As To Status Of Minor Child (AOC-CV-609), which is attached hereto and incorporated herein by reference.
3. The names, addresses, and telephone numbers of the juvenile's parents, guardian, custodian, or caretaker are as follows:

Name	Relationship/Title	Address	Telephone No.

Hearsay Exceptions In re K.E.P.

Business records, Rule 803(g)

- SW testimony properly testified about records kept by DSS
- 5 DSS reports

CME

- Dual Purpose
- Medical Dx and Tx, Rule 803(4)
- Basis of Expert Opinion

REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C.



REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C., No. 108PA24, 2025 WL 1479047 (N.C. May 23, 2025).

➤ Factual Background:

- L.C. (Layla) was born to respondent-mother and an unknown biological father. *Id.* at *1.
- Respondent mother also had twin children about two years after Layla's birth. *Id.*
- Respondent-mother and her "live-in girlfriend" were Layla's primary caretakers. *Id.*
- Respondent-mother had a long history of alcohol and drug abuse. *Id.*
 - When Layla was born, respondent-mother and Layla tested for methamphetamine and THC. *Id.*
 - Also, respondent-mother admitted to using marijuana and unprescribed Valium on the day her twin children were born. *Id.*
 - Those twin children remained in the neo-natal intensive care unit for two weeks. *Id.*
 - However, respondent-mother denied that the twins were hospitalized because of drug withdrawals. *Id.*
- Due to the twins' hospitalization, DSS visited respondent-mother's home to check on Layla. *Id.*



REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C., No. 108PA24, 2025 WL 1479047 (N.C. May 23, 2025).

➤ (cont.) **Factual Background:**

- The social worker recalled the following based on her interaction with respondent-mother:
 - (1) Respondent-mother spoke “very erratically,” “mov[ed] her arms a lot,” and had difficulty remaining on topic. *Id.*
 - Respondent-mother’s behavior led the social worker to believe that respondent-mother “was under the influence at the time of their meeting.” *Id.*
 - (2) Respondent-mother said “that she used methamphetamine, heroin, marijuana, benzodiazepines, and other drugs for which she claimed to have prescriptions.” *Id.*
 - (3) Respondent-mother “stated that the home was infested with rats and said that Layla had been exposed to drugs through ‘spore to spore contact.’ ” *Id.*
 - (4) Respondent-mother declined the social worker’s suggestion that Layla receive drug testing. In response, respondent-mother “asserted that ‘Swain DSS is only good for breaking up families.’ ” *Id.*
 - (5) Respondent-mother became hostile and demanded the social worker leave. *Id.* at *2.



REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C., No. 108PA24, 2025 WL 1479047 (N.C. May 23, 2025).

➤ (cont.) **Factual Background:**

- Respondent-mother and her live-in girlfriend “signed a temporary safety plan, under which neither respondent[-mother] nor her girlfriend were permitted to ‘have any unsupervised contact’ with Layla.” *Id.* at *2.
 - Further, the plan assigned the girlfriend’s mother as Layla’s primary caretaker. *Id.*
- Days later, the social worker saw respondent-mother and her girlfriend with Layla. *Id.* However, the girlfriend’s mother was not present. *Id.* Thus, respondent-mother and the girlfriend were with Layla unsupervised and in violation of the temporary safety plan. *Id.*
- DSS took Layla into temporary custody. *Id.*
- Next, DSS filed a petition alleging that Layla was a neglected and dependent juvenile. *Id.*



REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C., No. 108PA24, 2025 WL 1479047 (N.C. May 23, 2025).

➤ **Issue:**

- Whether the COA erred by vacating and remanding the trial court’s order adjudicating two-year-old L.C. as a neglected juvenile after concluding the trial court failed to include specific findings regarding respondent-mother’s actions impairing or substantially risking impairment of her child’s welfare?
In re L.C., No. 108PA24, 2025 WL 1479047, at *1 (N.C. May 23, 2025).

➤ **Holding:**

- Yes, the COA erred by vacating and remanding. *Id.* at *4.
 - “Although a trial court’s written findings of fact must sufficiently support its conclusions of law, the trial court does not need to specifically find a substantial risk of impairment in order to conclude that a child is neglected.” *Id.* at *1.

➤ **Reasoning:**

- “The order’s findings here—which detailed facts including respondent’s continued drug abuse and her failure to follow the safety plan she had signed just two days earlier—sufficiently support a conclusion of neglect.” *Id.*

➤ **Disposition:**

- Reversed. *Id.* at *5.



REQUIRED FINDINGS FOR NEGLECT ADJUDICATIONS

In re L.C., No. 108PA24, 2025 WL 1479047 (N.C. May 23, 2025).

Relevant Statutes

N.C.G.S. § 7B-101. Definitions.

- **(15) Neglected juvenile.** [*Inter alia*,] [a]ny juvenile less than 18 years of age . . . whose parent, guardian, custodian, or caretaker does any of the following:
- **a.** Does not provide proper care, supervision, or discipline.
 - **b.** Has abandoned the juvenile, except where that juvenile is a safely surrendered infant as defined in this Subchapter.
 - **c.** Has not provided or arranged for the provision of necessary medical or remedial care.
 - **d.** Or whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter.
 - **e.** Creates or allows to be created a living environment that is injurious to the juvenile's welfare.
 - **f.** Has participated or attempted to participate in the unlawful transfer of custody of the juvenile under [N.C.]G.S. [§] 14-321.2.
 - **g.** Has placed the juvenile for care or adoption in violation of law.

In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect **or** lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.



Emotional Abuse

7B-101(1)e.

Serious emotional damage evidenced by juvenile's severe anxiety, depression, withdrawal, or aggressive behavior towards self or others

Sexual abuse allegations by mom against dad

In re B.C.

- Mother coached children
- Unnecessary evaluations
- Alienate children from father
- Did not acknowledge impact on children

In re K.E.P.

- Multiple evaluations
- No requirement to find reports were made in bad faith (G.S. 7B-309 immunity not apply)

Physical Abuse Unexplained Injuries

In re L.B.

Findings

- Multiple bruises on infant exist
- DSS says parents; parents say daycare

What's the problem with this?



Unexplained Injuries Findings

Multiple bruises on
infant exist



Nothing about severity or
non-accidental

DSS says parents;
parents say daycare



Unresolved
Exclusive care?

In Contrast

In re N.N.

NICU behavior

SW home visit

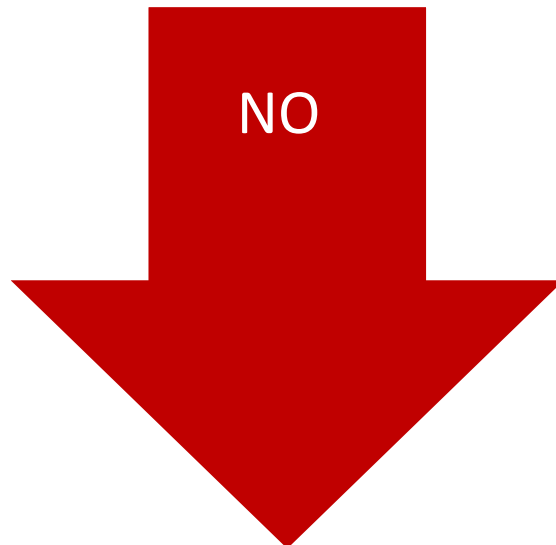
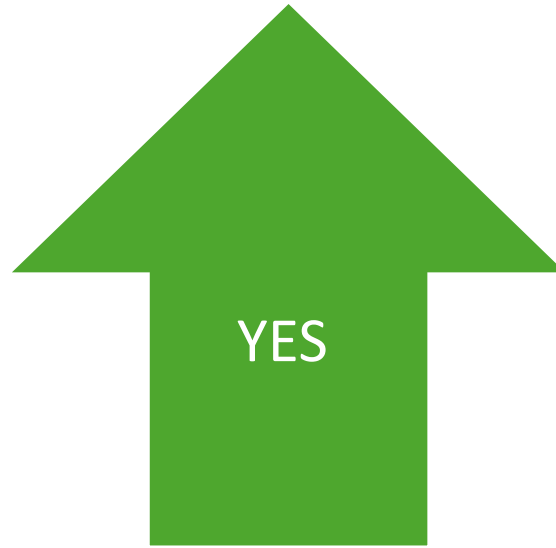
Nonaccidental life threatening
trauma

Sole care admission

Consideration of Abuse/Neglect of Other Juvenile

In re N.R.R.N.

Neglected Juvenile
7B-101(15)



Abused Juvenile

7B-101(1)

Direct action by PGCC

Is this serious physical injury by nonaccidental means?

In re A.D.W.

10 y.o. with Type 1 diabetes

- Insulin monitoring
- Diet
- Medical appointments

Multiple hospitalizations

- Diabetic ketoacidosis
- Acute kidney damage
- High risk of death

Serious Physical Injury

Not defined in
Juvenile Code

G.S. 14-318.4 an injury
that causes great pain
and suffering

Substantial Risk Created



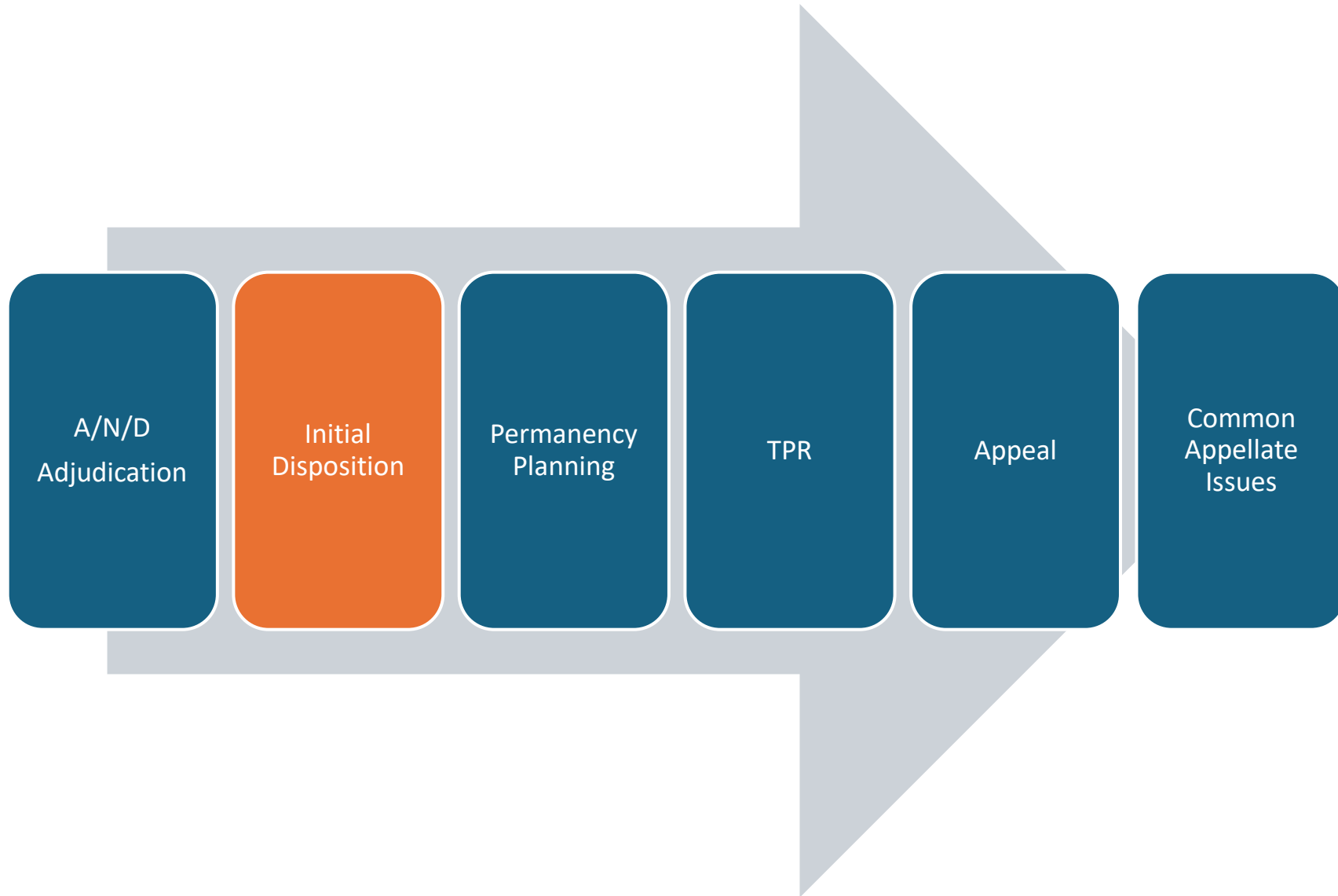
PARENT IS AWARE



FAILS TO TAKE NECESSARY
STEPS TO PROTECT MINOR



INCLUDES MEDICAL ISSUES
AND TREATMENT



INITIAL DISPOSITION

Parental Constitutional Rights: Issue Preservation & Waiver

In re K.C.,
386 N.C. 690 (2024)



INITIAL DISPOSITION

Parental Constitutional Rights: Issue Preservation & Waiver

In re K.C., 386 N.C. 690 (2024)

➤ Factual Background

- Respondent is 4-year-old Katy's biological father. Respondent does not live with Katy's mother.
- Katy's mother had physical custody.
- After Katy was born, Alamance County DSS received a report that Katy tested positive for marijuana.
 - Upon DSS's investigation, Katy's mother admitted to using both marijuana and cocaine during the pregnancy.
 - Katy's mother declined DSS's attempts to offer rehabilitative services addressing mental health, drug abuse, and anger management issues.
- While Katy was an infant, Katy's mother caused a car accident while under the influence of alcohol; she fled the scene.
 - DSS filed a petition alleging that Katy was a neglected juvenile.
 - DSS placed Katy with respondent-father.
 - However, DSS later learned about respondent-father's criminal history.
 - Respondent-father was arrested for assaulting a woman before the initial disposition hearing.
- DSS changed its dispositional recommendation and requested that Katy be placed with her paternal aunt and uncle.¹

➤ Procedural Background

- This case arises from respondent-father's appeal of a trial court's initial disposition order temporarily placing his child with her paternal aunt and uncle. *Id.* at 693–94.



¹ *In re K.C.*, 386 N.C. at 692–93.

INITIAL DISPOSITION

Parental Constitutional Rights: Issue Preservation & Waiver

In re K.C., 386 N.C. 690 (2024)

Supreme Court of North Carolina Clarifies Parental Constitutional Issue Preservation & Waiver

- **Issue**

- Under N.C.G.S. § 7B-1105, whether a parent's constitutional argument is preserved when the parent does not expressly raise that issue at trial and, instead, only opposes removal at trial? *Id.* at 694.

- **Holding**

- No. *Id.* at 697-98. “[U]nder *In re J.N.*, a parent who merely argues against a child’s removal, or against the child’s placement with someone else, does not adequately preserve the constitutional issue.” *Id.* at 697. (citing *In re J.N.*, 381 N.C. 131, 133 (2022)).
- “To preserve it, the parent must inform the trial court and the opposing parties that the parent is challenging the removal on constitutional grounds and articulate the basis for the constitutional claim.” *In re K.C.*, 386 N.C. at 697–98.
 - NOTE: This holding expressly overrules the preservation holding in *In re B.R.W.*, 278 N.C. App. at 397.

- **Disposition**

- Reversed. *In re K.C.*, 386 N.C. at 699.



PURPOSE BEHIND THE JUVENILE CODE

N.C.G.S. § 7B-100 *et seq.* (2023)

➤ Balancing a Child's Safety Needs with a Parent's Constitutional Rights

- The Juvenile Code is “designed to ensure that the rights of both parents and children are protected, while also prioritizing the children’s need for a safe, permanent home during childhood.”
In re K.C., 386 N.C. at 691
(citing, generally, N.C.G.S. § 7B 100 *et seq.*).
- Importantly, “[i]n most juvenile cases, the[] statutory safeguards also ensure that the State’s actions do not violate the parents’ constitutional rights.” *Id.*




G.S. 7B-901(c): Relieve DSS of Reasonable Efforts

In re N.N.

In re N.R.R.N.

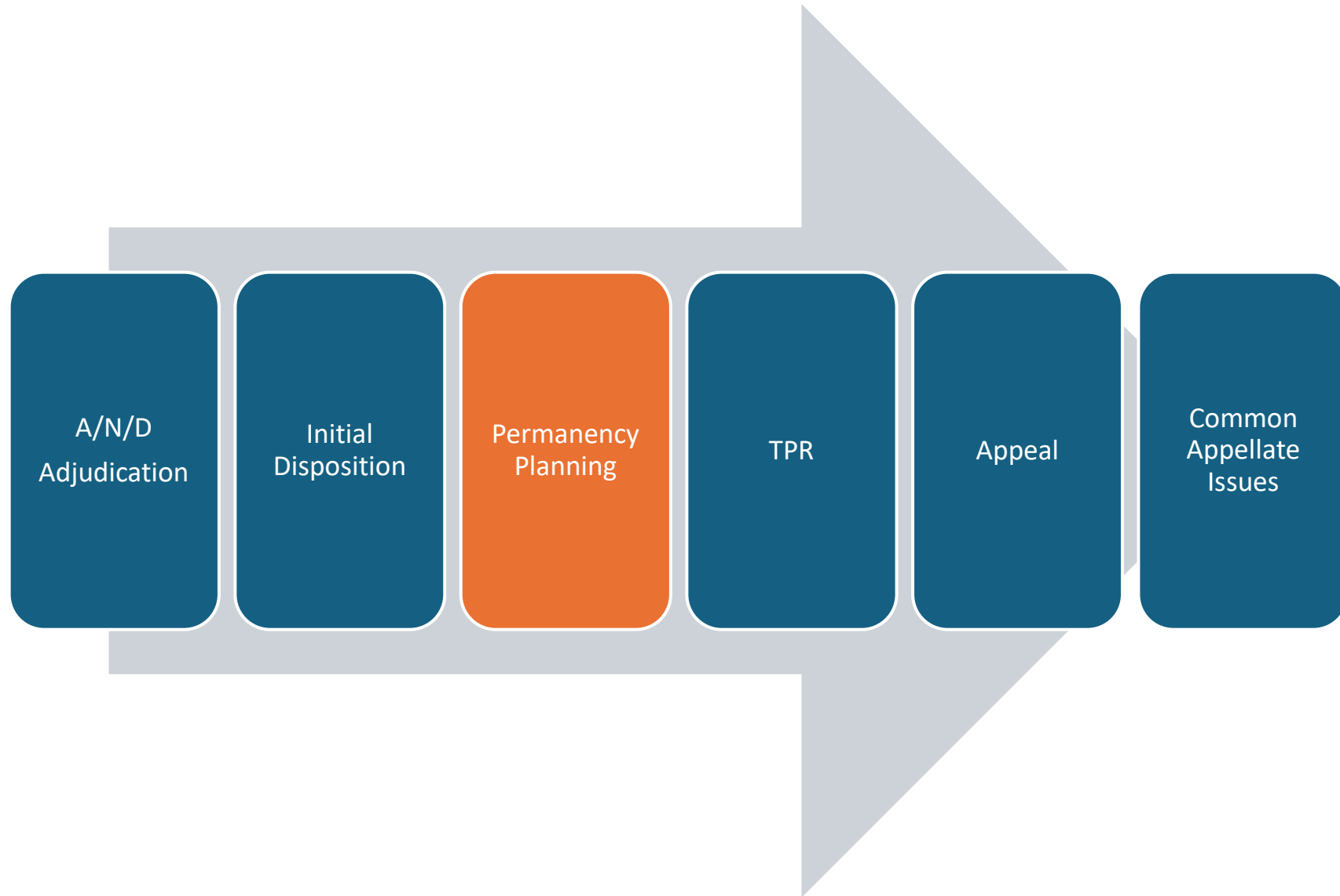
Chronic physical or emotional abuse



Impact on PPO In re H.G.

Findings under G.S.
7B-901(c) excludes
reunification as a
permanent plan

Notice not required



PERMANENCY PLANNING

Placement with a Non-Relative & Eliminating Reunification

In re L.L.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

➤ Factual Background

- At one month old, Liam suffered severe non-accidental injuries, which required hospitalization, while Liam was in his biological mother and father's sole care. *In re L.L.*, 386 N.C. at 708.
 - Liam's injuries caused life-long repercussions, requiring:
 - 24-hour care; and
 - Constant medical appointments at various frequencies throughout each year. *Id.* at 710.
 - Liam's diagnoses included:
 - Cerebral palsy;
 - Continued seizures;
 - Developmental delay; and
 - Possible intellectual disability. *Id.* at 708.
 - While Liam was in the hospital, DSS filed a petition alleging Liam was abused and neglected.
 - Liam was adjudicated abused and neglected. *Id.* at 708.
 - After discharge, Liam was placed with his foster family and has remained there for more than two years. *Id.* at 709.
- Liam's foster mother is home around-the-clock to provide the care Liam needs. *Id.*
- She also schedules and takes Liam to his medical appointments. *Id.*



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

➤ (cont.) **Factual Background**

- Liam's GAL report indicates in pertinent part that:
 - (1) Liam "will shut down and become unresponsive" when the foster mother is not present. *Id.* at 710.
 - (2) Further, Liam's therapists agreed that Liam's condition would "severely deteriorate" if Liam was removed from the foster home. *Id.*
- Despite Liam's exceptional health needs and GAL's recommendation, DSS recommended that it was in Liam's best interest that he move to the maternal grandfather's home in Georgia. *Id.*
 - Importantly, that maternal grandfather admitted that:
 - He barely knows Liam; and
 - He is incapable of providing Liam's for around-the-clock medical care. *Id.* at 709.
 - ❖ Instead, the maternal grandfather claims that his live-in girlfriend would provide for Liam's care. *Id.*

➤ **Procedural Background**

- Petitioner foster parents filed for discretionary review with the Supreme Court of North Carolina. *Id.* at 711.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Standards of Review

➤ Findings of Fact

- Here, respondent-mother did not appeal the COA holding that the trial court's findings were supported by competent evidence.
 - "Therefore, those findings are binding on appeal." *Id.* at 711 (citing *In re J.M.*, 384 N.C. 584, 591 (2023)).

➤ De Novo Standard

- Appellate courts "interpret[] statutory provisions de novo." *Id.* at 712 (citing *State v. J.C.*, 372 N.C. 203, 206 (2019) (citation omitted)).

➤ Abuse of Discretion Standard

- On appeal, a "'trial court's dispositional choices . . . are reviewed for abuse of discretion.'" *Id.* (quoting *In re J.M.*, 384 N.C. at 591 (extraneity omitted)).
 - Importantly, "[a]n abuse of discretion is shown where a trial court's ruling is manifestly unsupported by reason or is so arbitrary that it could not have been the result of a reasoned decision.'" *Id.* (quoting *In re A.A.*, 381 N.C. 325, 338 (2022) (extraneity omitted)).



PERMANENCY PLANNING

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Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Supreme Court of North Carolina Clarifies Findings Required in A/N/D Orders

Issues:

- “Whether the COA erred by holding that the trial court failed to make sufficient findings under statutory provision subsections N.C.G.S. §§ 7B-906.1(e), 7B-906.2(b) and (d), and 7B-903(a1)”? *Id.* at 712.
 - (i) Whether the trial court “abuse[d] its discretion by failing to make written findings of fact regarding uncontested statutory factors” under N.C.G.S. § 7B-906.1(e)? *Id.* at 713–14.
 - (ii) Whether the trial court made sufficient findings under N.C.G.S. §§ 7B-906.2(b) and 7B-906.2(d)(2)–(d)(4) when it included in its findings of fact only those factors which demonstrate the degree of success or failure toward reunification? *Id.* at 715.
 - (iii) Whether the trial court abused its discretion under N.C.G.S. § 7B-903(a1) when it failed to make a finding of fact as to “‘whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home’”? *Id.* at 719–20.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

➤ Holding:

- Yes, the COA erred by holding that the trial court failed to make sufficient findings under statutory provision subsections N.C.G.S. §§ 7B-906.1(e), 7B-906.2(b) and (d), and 7B-903(a1). *Id.* at 712.
 - **Placement with a Relative or Non-Relative**
 - No specific written findings are required by N.C.G.S. § 7B-903(a1). *Id.* at 720 n.7.
 - ❖ Instead, the trial court must only “‘consider whether there is a relative who is willing and able to provide proper care and supervision.’” *Id.* at 719. (quoting N.C.G.S. § 7B-903(a1)).
 - Consideration of placement with a relative and the child’s best interests is not made in a vacuum.
 - Instead, the trial court considers and compares all placement options. *Id.* at 720.
 - **Eliminating Reunification**
 - Under N.C.G.S. §§ 7B-906.1 and 7B-906.2, less findings are required in permanency planning orders concerning reunification elimination. The Supreme Court held:
 - ❖ (1) That the plain language of N.C.G.S. 7B-906.1(e) only requires written findings of relevant criteria rather than making findings of each listed factor. Further, the trial court “has discretion to determine which factors were relevant.” *Id.* at 713.
 - ❖ (2) That N.C.G.S. §§ 7B-906.2(b) and 7B-906.2(d)(4) are synonymous, “and therefore warrant[] the same analysis.” *Id.* at 716.
 - § 7B-906.2(b): “[R]eunification efforts clearly would be unsuccessful or inconsistent with the juvenile’s health or safety.”
 - § 7B-906.2(d)(4): “Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.”
 - “The trial court has discretion whether to make written findings under N.C.G.S. § 7B-906.2(d) . . . [and is] not required to mechanically recite” inapplicable subfactors. *Id.* at 718–19.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

➤ Reasoning:

- Here, findings show that the trial court considered whether the grandfather was willing and able to care for the child and determined placement with the petitioners was in the child's best interest. *Id.* at 721–22.
 - Further, findings show that:
 - The child had been living with petitioners for over two years;
 - The child has a bond with petitioners and their children; and
 - Petitioners are willing and able to provide for the child's special and intensive medical needs. *Id.* at 721.
- In its considerations, the trial court considered the grandfather's testimony and the GAL report, which recommended that the child remain with petitioners. *Id.* at 721–22.

➤ Disposition

- Reversed. *Id.* at 722.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Written Findings Required under N.C.G.S. § 7B-906.1.

Relevant Statutes

➤ N.C.G.S. § 7B-906.1. Review and permanency planning hearings.

- § 7B-906.1(e). At any *permanency planning hearing* where the juvenile is *not placed with a parent*, the court shall additionally consider the following criteria and *make written findings regarding those that are relevant*:
 - (1) Whether it is possible for the juvenile to be placed with a parent within the next six months and, *if not*, why such placement is not in the juvenile's best interests.
 - (2) Where *the juvenile's placement with a parent is unlikely within six months*, whether legal guardianship or custody with a relative or some other suitable person should be established and, *if so*, the rights and responsibilities that should remain with the parents.
 - (3) Where *the juvenile's placement with a parent is unlikely within six months*, whether adoption should be pursued and, *if so*, any barriers to the juvenile's adoption, including when and if termination of parental rights should be considered.
 - (4) Where *the juvenile's placement with a parent is unlikely within six months*, whether the juvenile should remain in the current placement, or be placed in another permanent living arrangement and why.
 - (5) Whether the county *department of social services* has since the initial permanency plan hearing made *reasonable efforts to implement the permanent plan for the juvenile*.
 - (6) Any *other criteria* the court deems necessary.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Written Findings Required under N.C.G.S. § 7B-906.2.

Reunification: Primary & Secondary Concurrent Permanency Plans

(cont.) Relevant Statutes

➤ **N.C.G.S. § 7B-906.2. Permanent plans; concurrent planning.**

- **§ 7B-906.2(b).** At any permanency planning hearing, the court shall adopt concurrent permanent plans and shall identify the primary plan and the secondary plan.
 - Reunification shall be a primary or secondary plan *unless the court made written findings under* N.C.G.S. § 7B-901(c) or N.C.G.S. § 7B-906.1(d)(3), the permanent plan is or has been achieved in accordance with subsection (a1) of this section, or the court makes written findings that reunification efforts clearly would be unsuccessful or would be inconsistent with the juvenile's health or safety.
 - The finding that reunification efforts clearly would be unsuccessful or inconsistent with the juvenile's health or safety may be made at any permanency planning hearing, and if made, shall eliminate reunification as a plan.
 - *Unless permanence has been achieved*, the court shall order the county department of social services to make efforts toward finalizing the primary and secondary permanent plans and may specify efforts that are reasonable to timely achieve permanence for the juvenile.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Reunification Success/Failure: Required Findings of Fact

(cont.) Relevant Statutes

➤ (cont.) **N.C.G.S. § 7B-906.2. Permanent plans; concurrent planning.**

- **§ 7B-906.2(d).** At any permanency planning hearing under subsections (b) and (c) of this section, the court shall make written findings as to each of the following which shall demonstrate the degree of success or failure toward reunification:
 - (1) Whether the parent is making adequate progress *within a reasonable period of time* under the plan.
 - (2) Whether the parent is actively participating in or cooperating with the plan, the department, and the guardian ad litem for the juvenile.
 - (3) Whether the parent remains available to the court, the department, and the guardian ad litem for the juvenile.
 - (4) Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

(cont.) Relevant Statutes

➤ (cont.) **N.C.G.S. § 7B-906.2. Permanent plans; concurrent planning.**

- **§ 7B-906.2(d).**

- “[O]nly those factors that demonstrate the degree of success or failure toward reunification require written findings.’ ”

In re L.L., 386 N.C. at 728.

- “[T]he trial court’s written findings need not track the statutory language verbatim” *Id.* at 716.

- However, the written findings “ ‘must make clear that the trial court considered the evidence in light of whether reunification would be clearly unsuccessful or would be inconsistent with the juvenile’s
 - ❖ health,
 - ❖ safety, and
 - ❖ need for a safe, permanent home within a reasonable period of time.’ ” *Id.*



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Placement: Out-of-Home Care

- **N.C.G.S. § 7B-903. Dispositional alternatives for abused, neglected, or dependent juvenile.**
 - **§ 7B-903 (a1).** In placing a juvenile in out-of-home care under this section, *the court shall first consider* whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home.
 - If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, *then the court shall order placement of the juvenile with the relative unless the court finds that the placement is contrary to the best interests of the juvenile.*
 - In placing a juvenile in out-of-home care under this section, the court shall also consider *whether it is in the juvenile's best interest* to remain in the juvenile's community of residence.
 - Placement of a juvenile with a relative outside of [North Carolina] must be in accordance with the *Interstate Compact on the Placement of Children.*



PERMANENCY PLANNING

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Appeal from Initial Adjudication:

Placement with a Non-relative & Eliminating Reunification

In re L.L., 386 N.C. 706 (2024)

Placement: Out-of-Home Care

- (cont.) **N.C.G.S. § 7B-903.** Dispositional alternatives for abused, neglected, or dependent juvenile.
 - **§ 7B-903 (a1).**
 - The subsection’s language “does not require the trial court to make any written findings”
In re L.L., 386 N.C. at 719.
 - Rather, the language requires the trial court to “*consider* whether a relative of the juvenile is willing and able to provide proper care and supervision” *Id.*
 - Trial courts should “consider[] and compar[e] all the placement options” when determining which option is in the child’s “‘best interests’”
Id. at 720.



PERMANENCY PLANNING

Insufficient Findings of Fact

In re A.J.



PERMANENCY PLANNING

Appeal from Initial Adjudication:

Neglect & Dependency

In re A.J., 386 N.C. 409 (2024)

➤ Factual Background

- Respondent-mother has three children: Amanda, Jade, and Juliet. *In re A.J.*, 386 N.C. at 710.
- Pitt County DSS received several reports about respondent-mother's family.
 - All involved interactions between respondent and Jade. *Id.* at 711.
 - Reports noted that respondent-mother acted in a hostile and aggressive manner during these interactions. *Id.*
 - Respondent-mother, among other actions, reportedly:
 - Smashed in a window of her car after Jade locked herself in that car.
 - Left Jade outside the house in the cold until neighbors took her in. *Id.*
- Respondent-mother agreed with DSS that she needed to obtain a mental health assessment. *Id.*
 - However, respondent-mother never obtained the assessment. *Id.*
 - Further, respondent-mother later denied ever needing the assessment. *Id.*
- The trial court entered a written order finding:
 - That all three juveniles were *neglected*; and
 - That Jade and Juliet were *dependent*. *Id.*
- In that written order, many of the trial court's findings relied on Jade's hearsay statements or other evidence to which respondent-mother timely objected. *Id.*



PERMANENCY PLANNING

23

Appeal from Initial Adjudication:

Neglect & Dependency

In re A.J., 386 N.C. 409 (2024)

Supreme Court Clarifies What Appellate Courts Must Do if Finding of Fact Lacks Sufficient Support in the Record

➤ Issue:

- Before remanding based on unsupported trial court findings of fact, must an appellate court first examine whether the remaining findings are sufficient and, if necessary, examine whether the evidentiary record could support additional findings? *Id.* at 413.

➤ Holding:

- Yes.
 - An appellate court may remand for entry of an order dismissing the matter only if the trial court's findings are insufficient *and* the evidentiary record is so lacking that it cannot support any appropriate findings on remand. *Id.* at 412.

➤ Reasoning:

- Here, the Court of Appeals erred by “revers[ing] the trial court’s order and remand[ing] with instructions to dismiss the juvenile petitions.” *Id.* at 410.
 - After disregarding unsupported findings of fact, there is clear, cogent, and convincing evidence in the record that could support the necessary findings. *Id.* at 417.

➤ Disposition:

- Reversed and remanded with instructions to vacate the trial court’s order and remand for further proceedings. *Id.* at 418.



PPH Oral testimony required

In re J.A.S.F.



COURT OF APPEALS
PRECEDENT



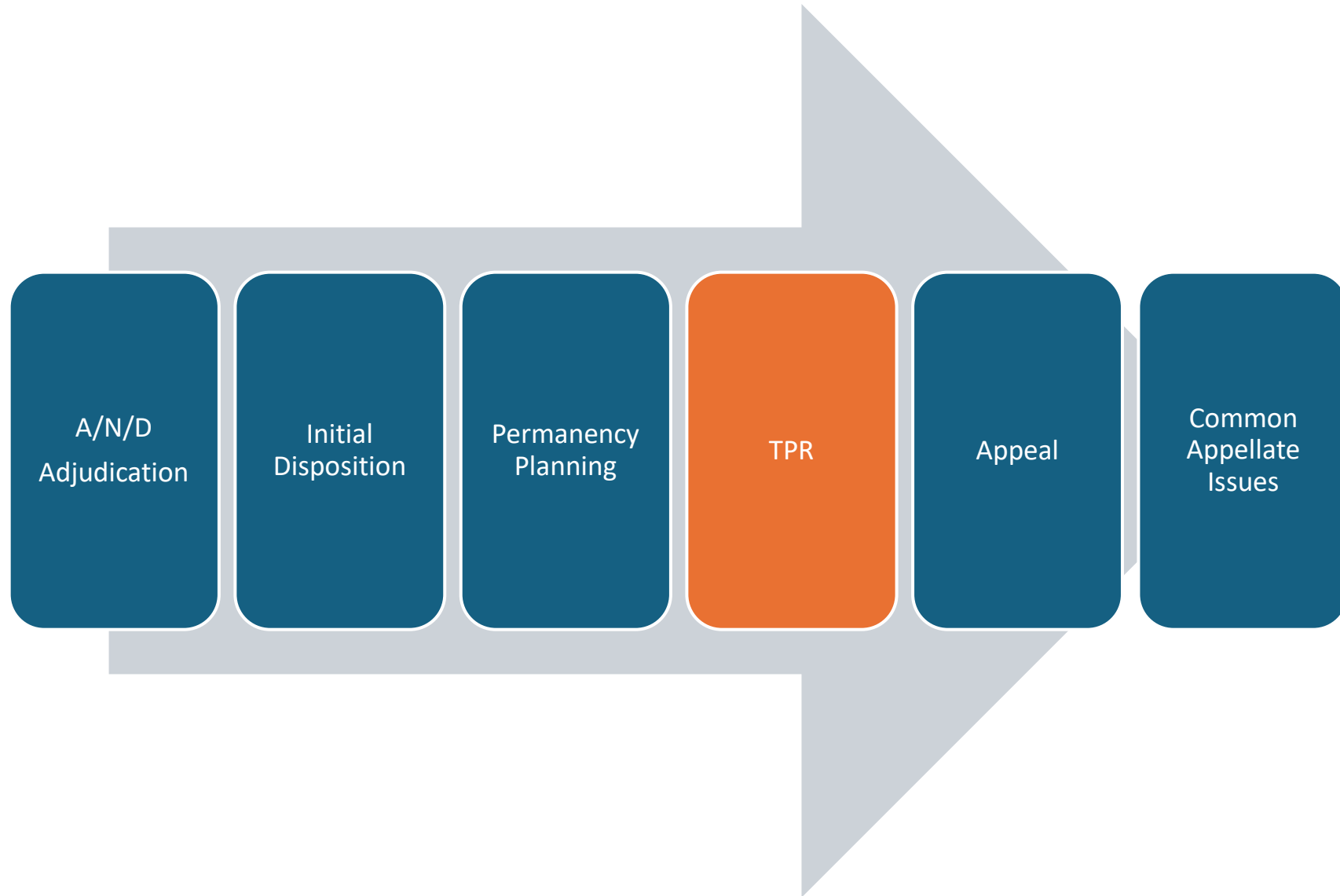
NOT ADDRESSED BY SUPREME
COURT

Incarceration

In re M.L.H.



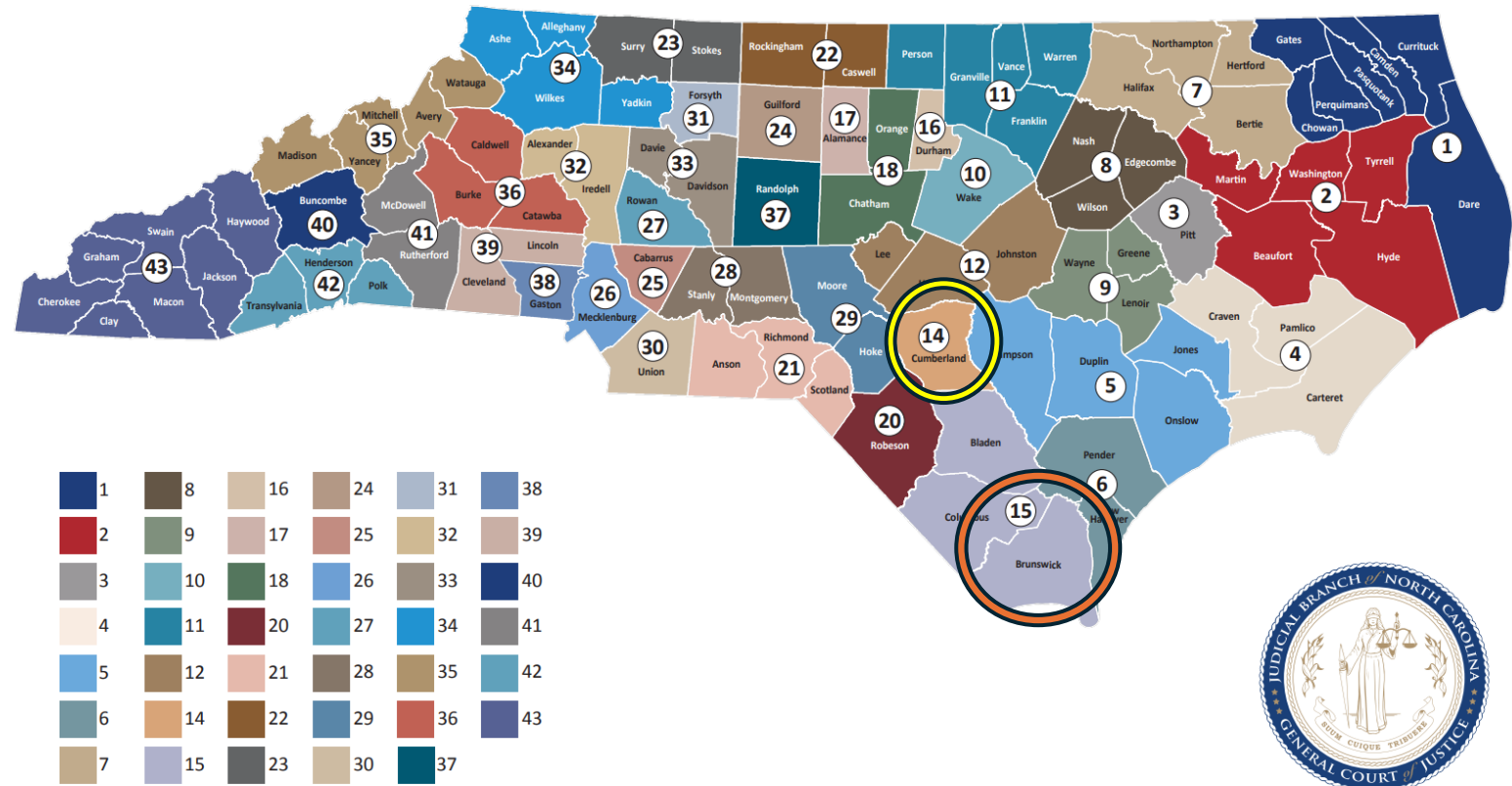
Voluntary = lack of commitment to reunification



TPR/Underlying A/N/D case

In re S.W.

NORTH CAROLINA DISTRICT COURT DISTRICTS



Effective January 1, 2024

Separate Actions

Cumberland
jurisdiction in
A/N/D

Brunswick
jurisdiction under
7B-1101 in TPR

No prior doctrine
action

Underlying
A/N/D matter
irrelevant for
jurisdiction

Change of venue



DISCRETIONARY REVIEW



TRAVEL CONCERNS
INSUFFICIENT

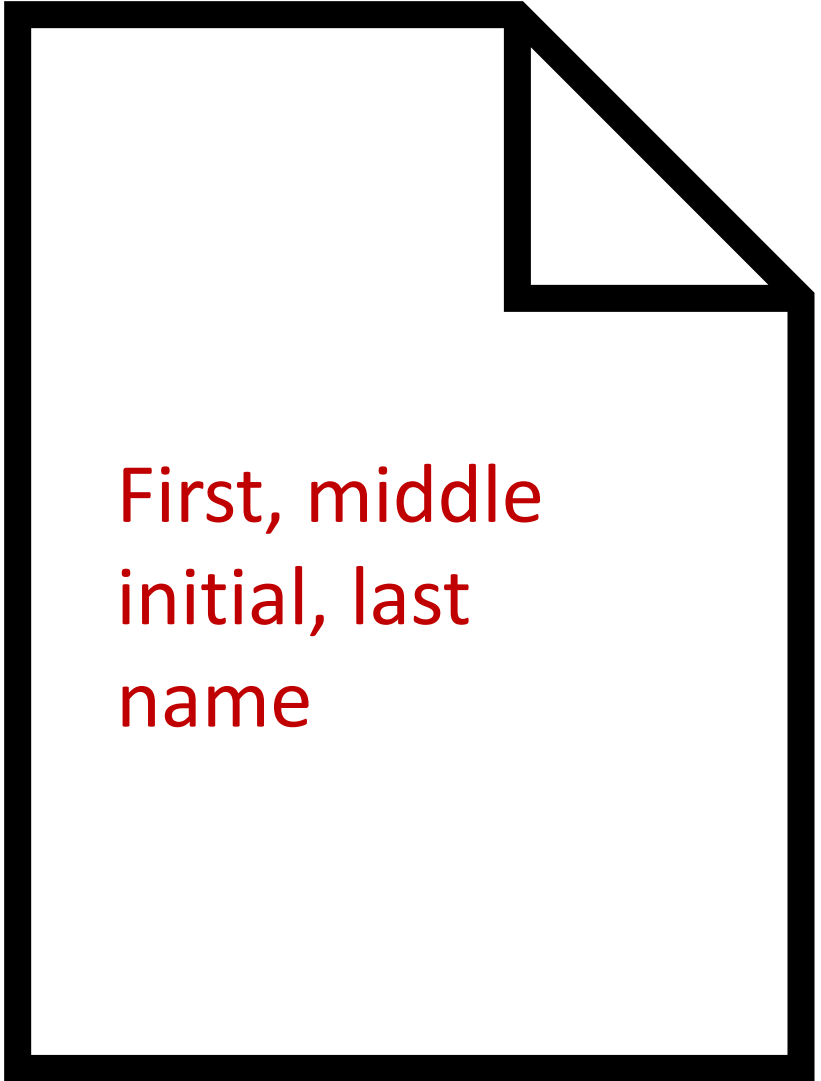


FINDINGS REQUIRED ONLY
IF GRANT MOTION

Child's Name in TPR Petition

In re A.J.B.

- 7B-1104: Full legal name on birth certificate
- Identity of child



First, middle
initial, last
name

Remanded:
Respondent must
show prejudice

Counsel

In re N.M.W.

In re A.K.H.

In re D.E.-E.Y.

Withdraw

- Justifiable grounds
- Notice to client
- Permission of the court

Waive and Forfeit

- Knowing
- Egregious conduct

Abandonment & Rule 17 GAL

In re K.J.P.W.

7B-1111(a)(7):
Willful (purpose
and deliberation)

Rule 17 =
incompetent

Can they engage
in willful action?

Yes

Rule 17 “is not based
on a person’s legal
incompetence”

Role is limited to
“assisting a parent
during a particular
juvenile proceeding”

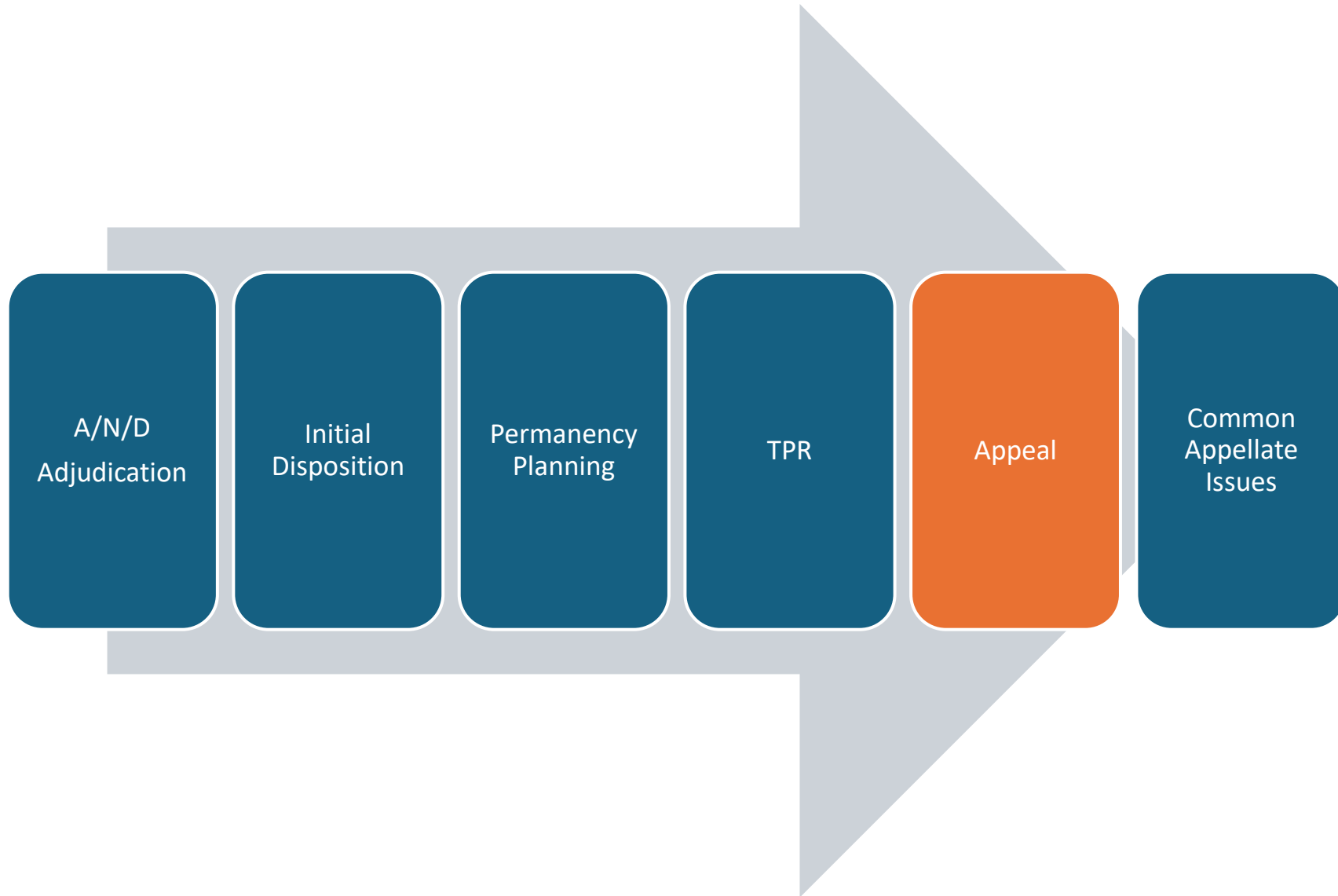
Not the same as
Chapter 35A
incompetence

Duties of GAL at Disposition In re S.D.H.

Investigate

Make
Recommendations

Court implicit duty
to ensure duties
performed



Signatures: Notice of Appeal

In re Z.A.N.L.W.C.

§ 7B-1002. Proper parties for appeal.

Appeal from an order permitted under G.S. 7B-1001 may be taken by:

- (1) A juvenile acting through the juvenile's guardian ad litem previously appointed under G.S. 7B-601.
- (2) A juvenile for whom no guardian ad litem has been appointed under G.S. 7B-601. If such an appeal is made, the court shall appoint a guardian ad litem pursuant to G.S. 1A-1, Rule 17 for the juvenile for the purposes of that appeal.
- (3) A county department of social services.
- (4) A parent, a guardian appointed under G.S. 7B-600 or Chapter 35A of the General Statutes, or a custodian as defined in G.S. 7B-101 who is a nonprevailing party.
- (5) Any party that sought but failed to obtain termination of parental rights.



Signed by

Appealing party
and counsel (7B-
1001(c))

What Rule



Signatures: Notice of Appeal

In re Z.A.N.L.W.C.

§ 7B-1002. Proper parties for appeal.

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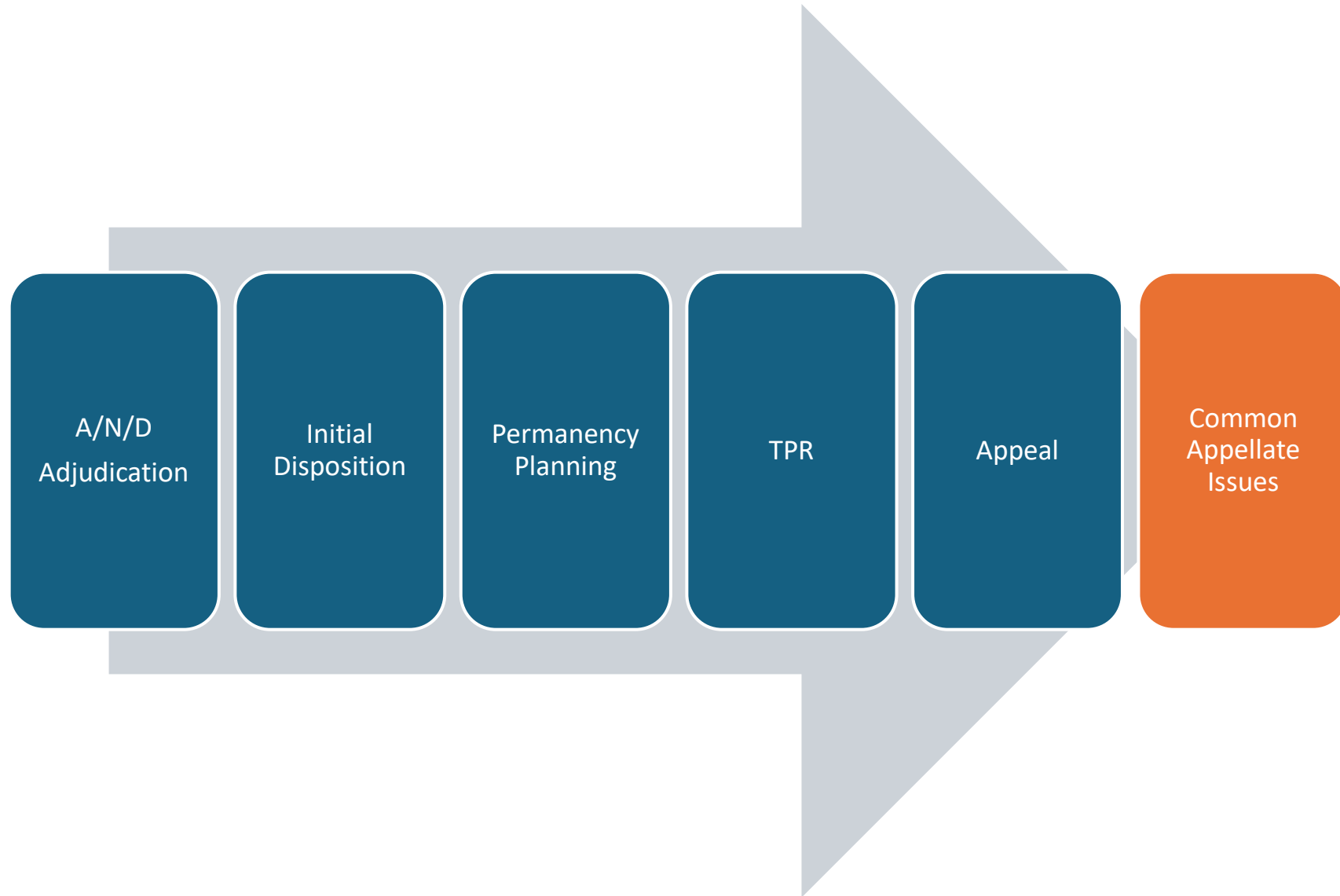
Director



Includes authorized representative



108A-14(b): statutory delegation



COMMON ISSUES ON APPEAL

What Constitutes a Finding of Fact?

➤ Avoid Simple Recitations of Evidence

- Examples of improper findings of fact include those that simply restate evidence presented at trial.
 - “Respondent-father stated”
 - “Respondent-father relayed”
 - “Respondent-father testified”

➤ Instead, Focus on the Purpose of Findings of Fact & Conclusions of Law

- (1) Dispose of issues raised by the pleadings;
- (2) Make definite what was decided for purposes of res judicata and estoppel;
- (3) Evoke care in ascertaining the facts; and
- (4) Allow for meaningful appellate review.²
 - E.g., “Respondent-father [insert omission or action found]”



² Anderson, Civil Orders: Findings of Fact and Conclusions of Law, N.C. SUPERIOR COURT JUDGES' BENCHBOOK (School of Government, UNC 2017)

COMMON ISSUES ON APPEAL

Inadmissibility of Post-petition Evidence at Adjudicatory Hearing

➤ General Rule:

- Post-petition evidence is generally inadmissible during an adjudicatory hearing for abuse, neglect, or dependency. *In re V.B.*, 239 N.C. App. 340, 344 (2015) (citation omitted).

➤ Exception:

- Post-petition evidence that does not constitute a “discrete event or one-time occurrence.” *In re G.W.*, 286 N.C. App. 587, 594 (2022).
 - Instead, conditions such as these have been determined by this Court to be “fixed and ongoing circumstance[s]” so that post-petition evidence about them is allowed to be considered in a neglect adjudication. *Id.*
 - E.g., Post-petition evidence that “pertains to mental illness and paternity.” *Id.*



KEY TAKEAWAYS



KEY TAKEAWAYS

Avoidable Procedural Errors

➤ Initial Disposition

- *In re K.C.*, 386 N.C. 690 (2024)
 - A parent does not preserve his constitutional argument for appellate review when he opposes DSS's recommendation concerning the child's temporary placement. *Id.* at 698



KEY TAKEAWAYS

Avoidable Procedural Errors

- **Permanency Planning – Placement with a Relative or Non-Relative & Eliminating Reunification**
 - *In re L.L.*, 386 N.C. 706 (2024)
 - **Placement with a Relative or Non-Relative**
 - No specific written findings are required by N.C.G.S. § 7B-903(a1).
 - ❖ Instead, the trial court must only *consider* whether there is a relative who is willing and able to provide proper care and supervision.
 - ❖ Consideration of placement with a relative and the child's best interests is not made in a vacuum.
 - ❖ Instead, the trial court considers and compares all placement options.



KEY TAKEAWAYS

Avoidable Procedural Errors

➤ (cont.) Permanency Planning – Placement with a Relative or Non-Relative & Eliminating Reunification

- (cont.) *In re L.L.*, 386 N.C. 706 (2024)

- **Eliminating Reunification**

- Under N.C.G.S. §§ 7B-906.1 and 7B-906.2, less findings are required in permanency planning orders concerning reunification elimination. The Supreme Court held:
 - ❖ (1) That the plain language of N.C.G.S. 7B-906.1(e) only requires written findings of relevant criteria rather than making findings of each listed factor. Further, the trial court “has discretion to determine which factors were relevant.” *In re L.C.*, 386 N.C. at 713.
 - ❖ (2) That N.C.G.S. §§ 7B-906.2(b) and 7B-906.2(d)(4) are synonymous, “and therefore warrant[] the same analysis.” *In re L.L.*, 386 N.C. at 716.
 - § 7B-906.2(b): “[R]eunification efforts clearly would be unsuccessful or inconsistent with the juvenile’s health or safety.”
 - § 7B-906.2(d)(4): “Whether the parent is acting in a manner inconsistent with the health or safety of the juvenile.”
- “The trial court has discretion whether to make written findings under N.C.G.S. § 7B-906.2(d) . . . [and is] not required to mechanically recite” inapplicable subfactors. *Id.* at 708.



KEY TAKEAWAYS

Avoidable Procedural Errors

➤ Initial Adjudication

- *In re A.J.*
 - **Findings of Fact: Rules of Evidence**
 - Findings of fact must be “supported by clear, cogent, and convincing evidence” that is admissible under the Rules of Evidence. *In re A.J.*, 386 N.C. at 413; *see also* N.C.G.S. § 7B-804 (stating that the North Carolina Rules of Evidence apply at the adjudication stage of abused, neglected, or dependent juveniles).



KEY TAKEAWAYS

Avoidable Procedural Errors

➤ (cont.) Initial Adjudication

- *In re L.C.*
 - **Findings of Fact: Avoid Simple Recitations**
 - Avoid evidence recitation in findings of fact “without stating whether [the trial court] found that evidence credible.” *In re L.C.*, No. 108PA24, 2025 WL 1479047, *5 (N.C. May 23, 2025).



KEY TAKEAWAYS

Avoidable Procedural Errors

➤ (cont.) Initial Adjudication

- **Post-petition Evidence:**

- N.C.G.S. § 7B-802 (2023).

- Generally, post-petition evidence is inadmissible at adjudicatory hearings for abuse, neglect, or dependency. *See N.C.G.S. § 7B-802 (2023)* (stating that the adjudicatory hearing shall be . . . designed to adjudicate the existence or nonexistence of any of the conditions *alleged in a petition*) (emphasis added).



Q & A



N.C. District Court Judges' Conference

June 2025

**THANK
YOU!**



N.C. District Court Judges' Conference
June 2025