



Child Welfare Case Update

By Sara DePasquale
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Today



The Lumbee Tribe of NC Is Fully Federally Recognized; ICWA Now Applies in A/N/D and TPR Actions for Indian Children Affiliated with the Lumbee

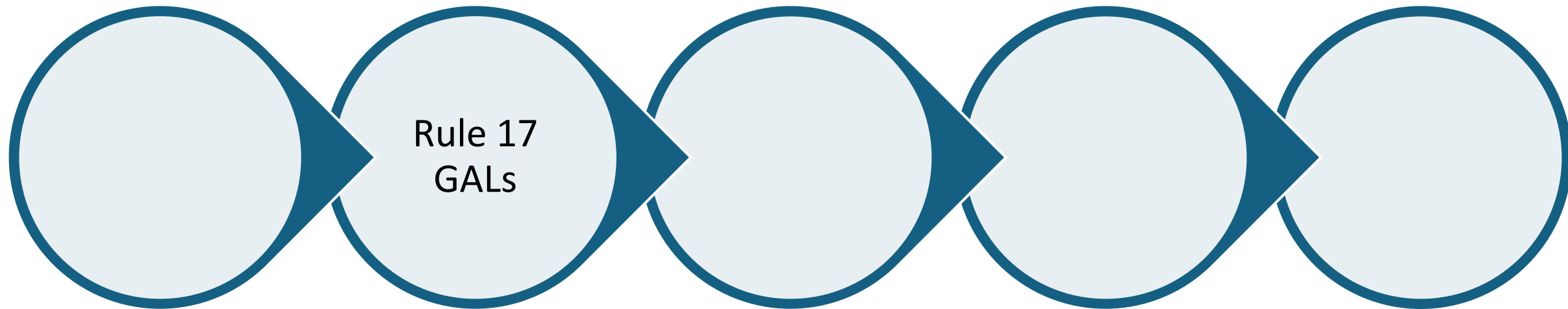
Sara DePasquale

The Lumbee Tribe of North Carolina (Lumbee) has received full federal recognition through the [Lumbee Fairness Act](#), which was included in the National Defense Authorization Act. The law was signed by the President, granting full federal recognition to the Lumbee on December 18, 2025. This is an extraordinary time for the Lumbee, who will have access to services and resources (such as support with education, health care, and housing) from the Bureau of Indian Affairs (BIA) as well as the right to self-governance.

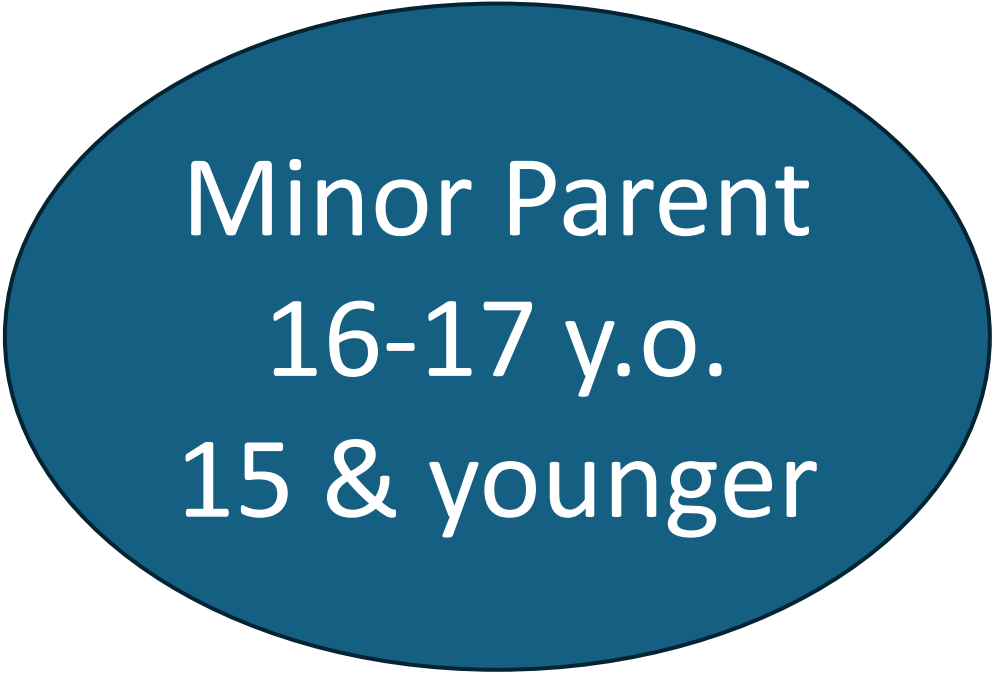
What Now?

- ICWA Inquiry & Reason to Know
- Notice
 - Active and Inactive
 - Closed Enrollment
 - State-recognized tribe
- Intervention
- Active Efforts
- Qualified Expert Witness (QEW)
- Placement Preferences
- Relinquishment

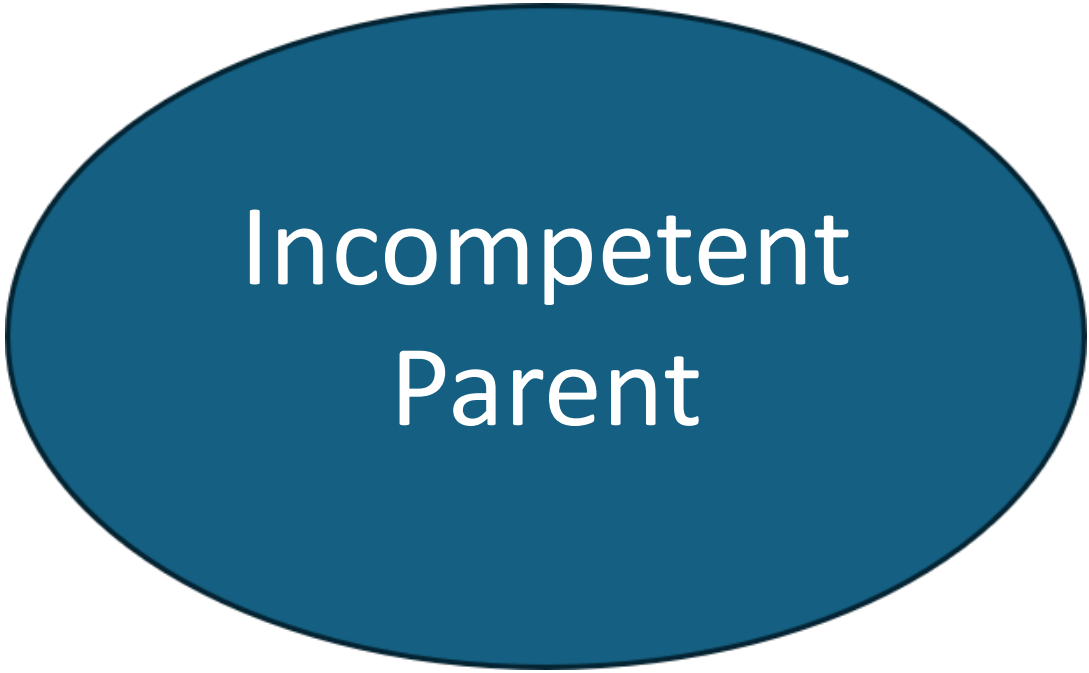
Today



Rule 17 GAL



Minor Parent
16-17 y.o.
15 & younger



Incompetent
Parent

Role

Protect procedural due process by removing legal disability

Divests parent of fundamental right to conduct their litigation according to their own judgment

Assist in explaining and executing rights

Secure favorable judgment

No GAL of assistance anymore

Due Process

In re A.T., p. 24



Notice



Opportunity to be Heard

Participation Fifth Amendment and Delinquency

01

Attorney object

02

Court explanation,
acknowledged by
mother

03

Mother asserted
Fifth to 1 question



Participation

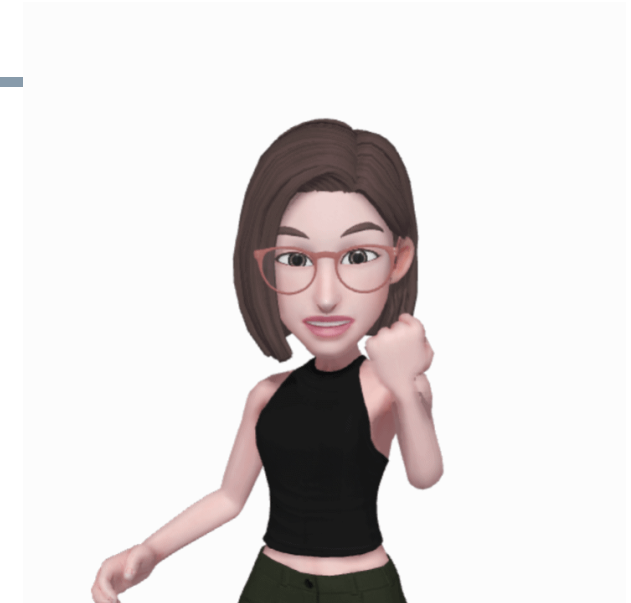
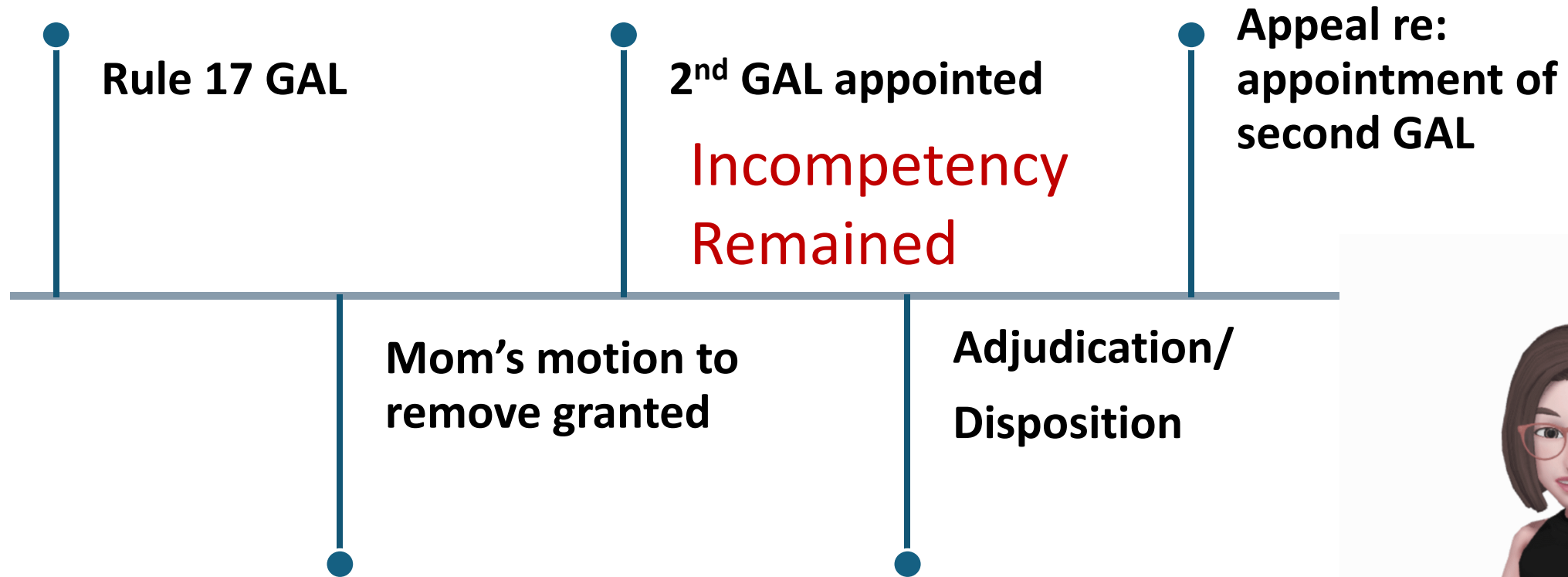


- Minor
- No indication she lacked competency to understand
- Exercised her right

“allow for the possibility of error to same degree as is allowed to persons who are not incompetent”

Withdrawal and Appointment

In re K.R., p. 4





Notice and opportunity
to be heard satisfied



School of
Government

JUVENILE LAW BULLETIN

NO. 2026/01 | FEBRUARY 2026

Rule 17 Guardians ad Litem for Respondents in Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings: Frequently Asked Questions

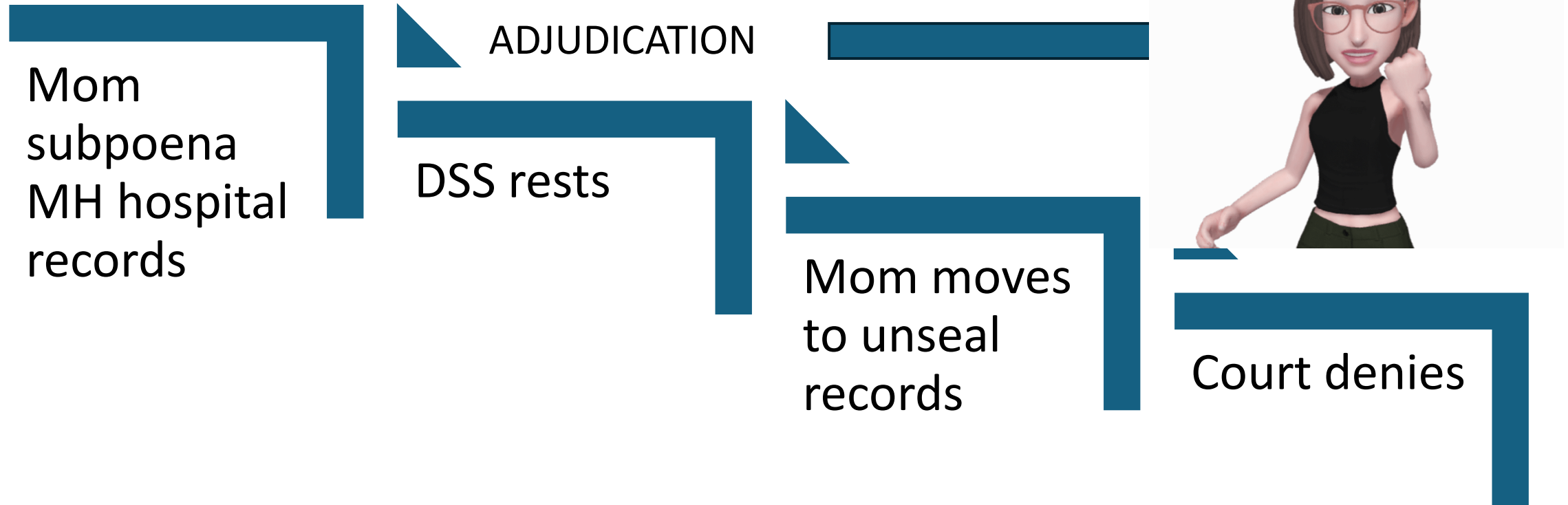
Timothy Heinle and Sara DePasquale

Today



Rule 45 Hospital Records

In re K.R., p. 5





Rule 45

- Copies of hospital records are ordered published by the judge at time of hearing
 - Sealed in clerks' office
 - Midtrial, no opportunity to review
-

Collateral Estoppel

In re A.D.H., p. 5



Father
Sexual
Abuse



Conflict of Interest

Continued participation
in the matter is “wholly
inappropriate”

G.S. 7B-302.1

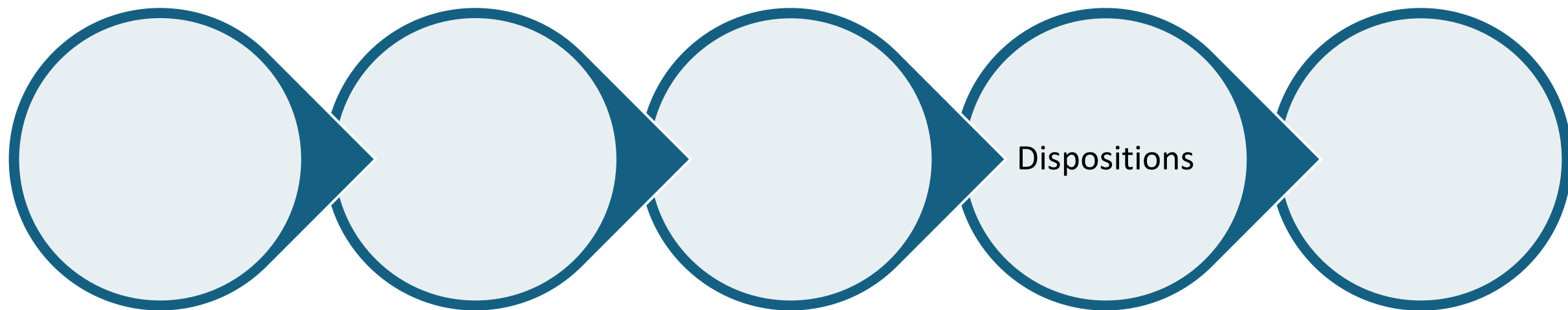


Post-Petition Evidence

In re P.G., p. 10

- General Rule: Not permitted
- Fixed and ongoing circumstances exception (Mental Health)

Today



Initial Disposition: Reunification Efforts

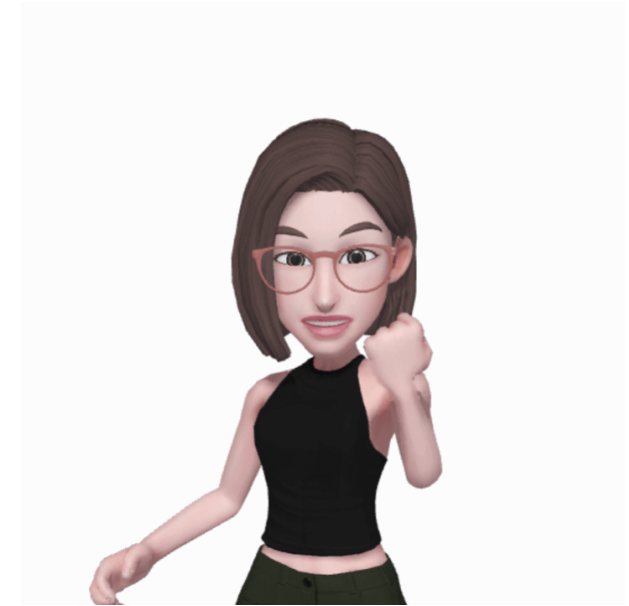
In re R.L., p.13

- Chronic physical abuse
- Judicial notice of “chronic” not bound to apply
- COA precedent
- DSS not required to specify factor
- FOF and COL

Visitation and Delegation

Uncle determine
location and time

In re A.C., p. 15



Every other weekend
6 Fri – 6 Sun Additional
periods mutually
agreed upon
In re S.H., p 15

Gag Order and Social Media

In re M.B., p 17

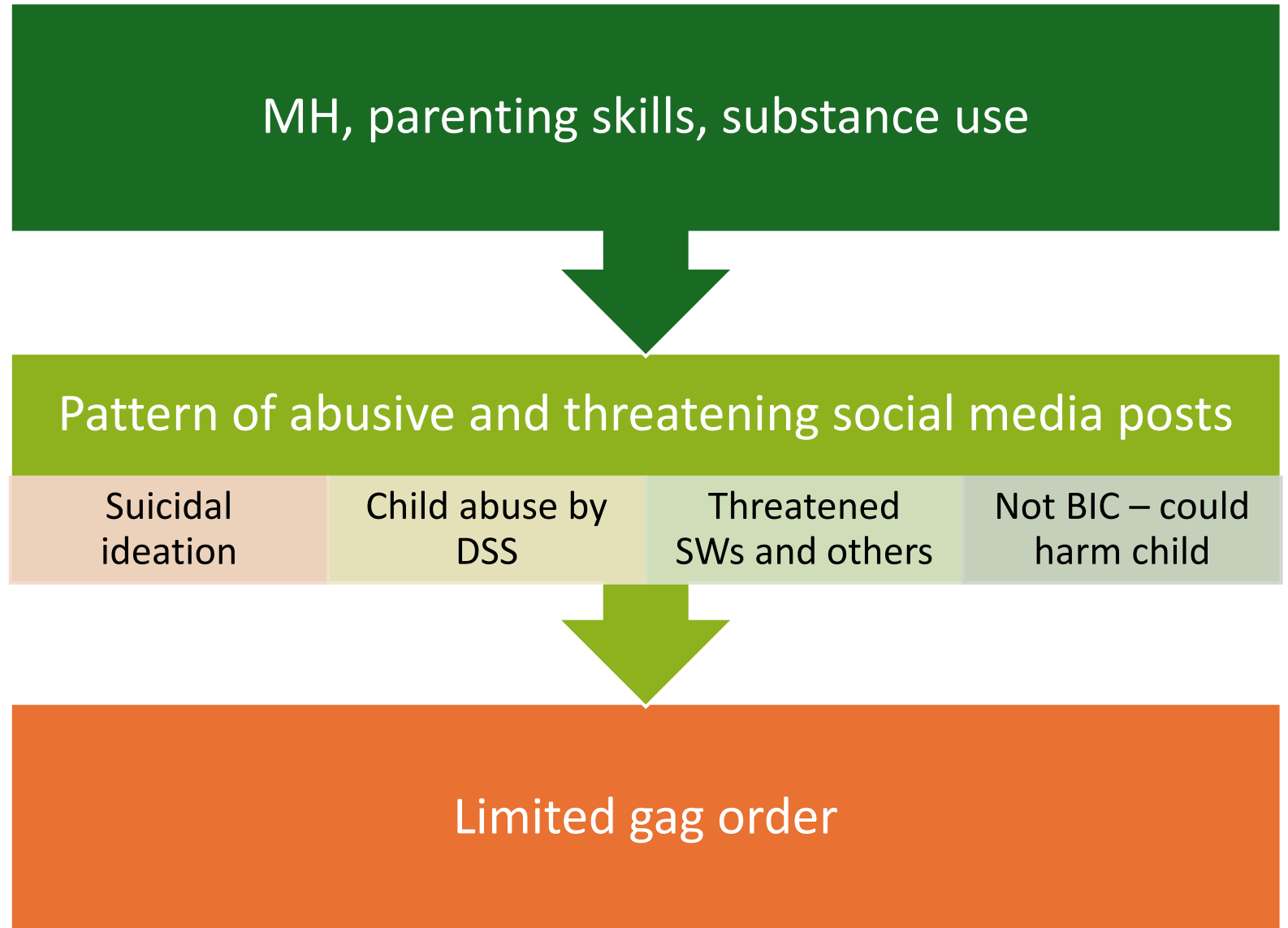
PPO:

Mother not discuss case plan or people involved with case on social media

Challenge: exceed dispositional authority and violate constitutional rights



Nexus (G.S. 7B-904)





Eliminate Reunification

In re N.M.W., p. 18

7B-906.2(d)
Findings

NCSC
precedent,
In re L.L.

Concurrence: ?
In re civil
penalty

G.S. 7B-911

Sherrick, 209 NC App 166 (2011)

“In certain cases which have originated as abuse, neglect, or dependency proceedings under Chapter 7B of the General Statutes, a time may come when involvement by the Department of Social Services is no longer needed and the case becomes a custody dispute between private parties which is properly handled pursuant to the provisions of Chapter 50...

[N.C. Gen.Stat. § 7B–911](#) sets forth a detailed procedure for transfer of such cases which will ensure that the juvenile is protected and that the juvenile’s custodial situation is stable throughout this transition.”



G.S. 7B-911 Findings

- Findings and Conclusions for Ch. 50
 - No need for continued state intervention
 - At least 6 months since court determined placement with person is the permanent plan (unless...)
-

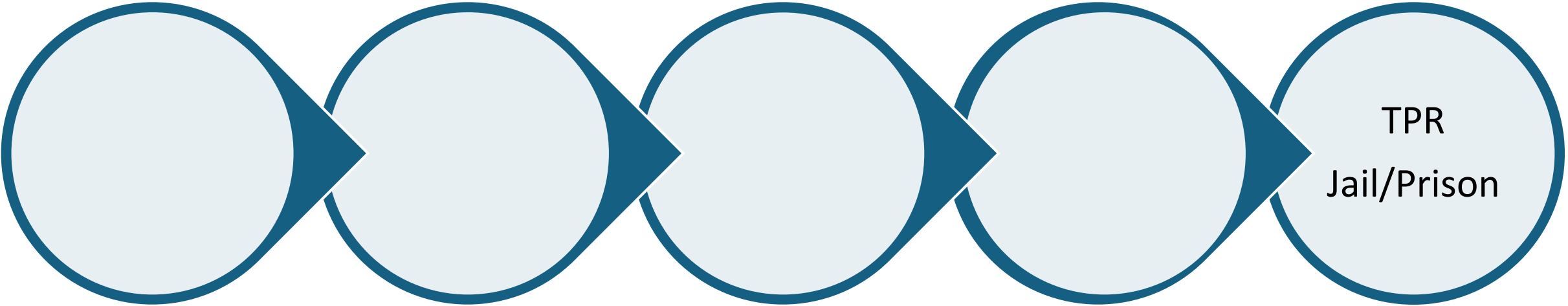


Findings and Jurisdiction

In re A.C., p. 22

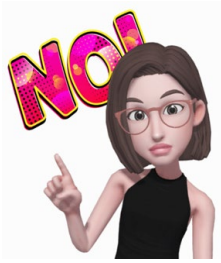
- Permanent order before terminate jurisdiction
 - 6 months not passed, so 7B-911(c)(2) not met
 - No jurisdiction
-

Today



TPR- Incarceration



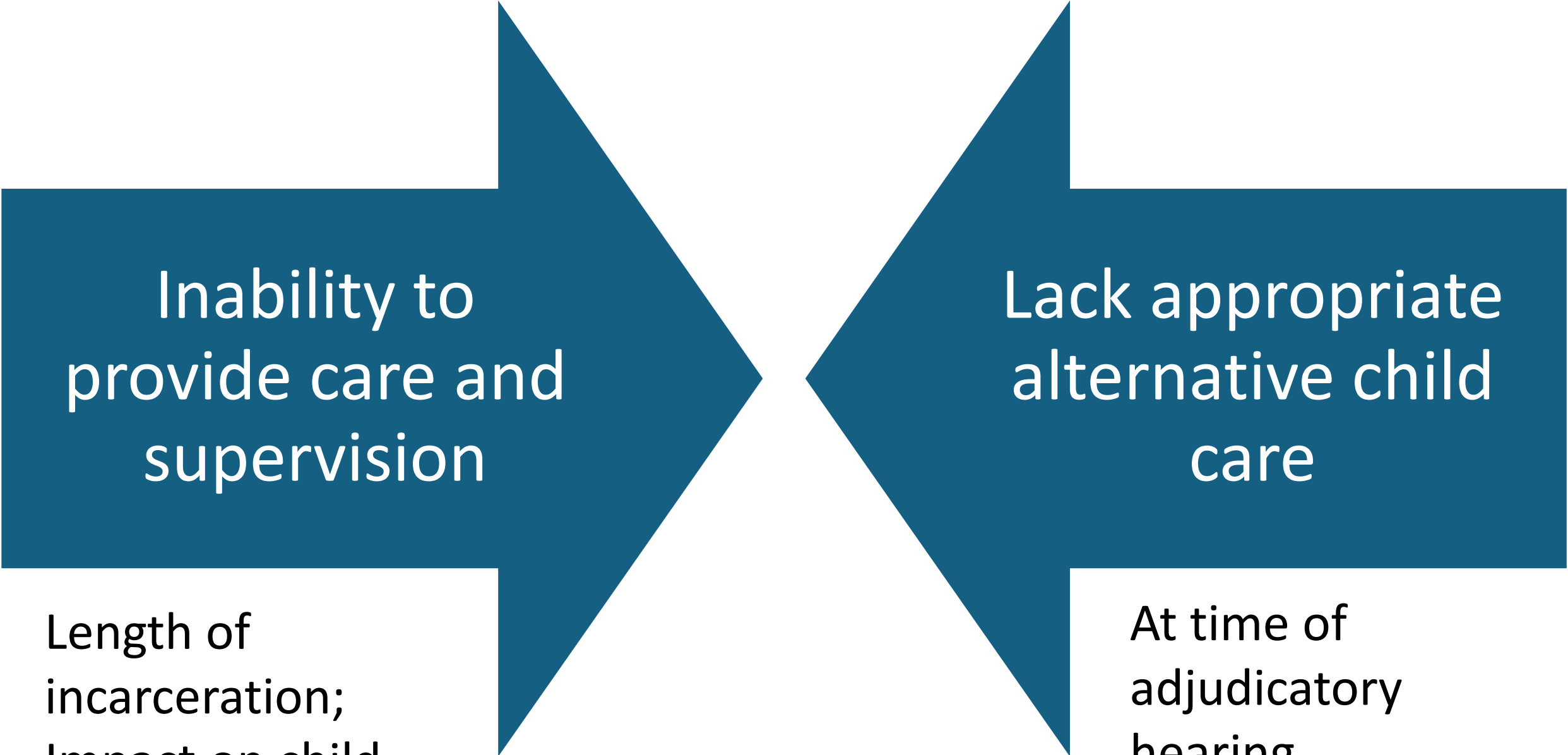


Neglect

In re L.B., p. 3

- Federal custody, county jail initially, total time 4 years
- PPO – 33 year sentence
- Dad provided monthly updates, completed parenting, anger mgmt & drug education course, sent letters to child monthly, consented to child's Tx, rec'd updates about child
- Unable to obtain housing and employment, no visits with child
- Limited in services in jail

Dependency: 2 prongs



The diagram consists of two large, dark blue, arrow-shaped boxes pointing towards each other, forming a central diamond shape. The left arrow points right and contains the text 'Inability to provide care and supervision'. The right arrow points left and contains the text 'Lack appropriate alternative child care'. Below the left arrow is the text 'Length of incarceration; Impact on child'. Below the right arrow is the text 'At time of adjudicatory hearing'.

Inability to
provide care and
supervision

Length of
incarceration;
Impact on child

Lack appropriate
alternative child
care

At time of
adjudicatory
hearing

Today





Please Come
Back by 10:30
