

Neglect

What is the Ballard test?

The juvenile tested positive for controlled substances at birth, and mother had an extensive substance use history. DSS filed a neglect petition and obtained nonsecure custody. The juvenile was adjudicated neglected. During the neglect case, father approached DSS believing he was the infant's father. After several months, his paternity was established. Father did not make progress on his case plan, which focused on his own substance use. DSS filed a TPR petition. Evidence at the TPR shows father did not comply with his substance use treatment, tested positive on some of his drug screens, denied having a substance use problem, and did not comply with the recommendations of the parental capacity evaluation. Father argues that the court cannot find neglect because he was not responsible for the prior neglect of the juvenile as the adjudication addressed the child's circumstances that were created solely by the mother.

How do you decide?

The juvenile was adjudicated neglected based on circumstances created by mother including chronic homelessness, domestic violence, and mother disappearing for a couple days without making arrangements for her children's care. Mother was ordered to comply with a case plan including completing a psychological and substance use assessment, complying with mental health treatment recommendations, completing a parenting class, obtaining and maintaining stable housing and employment, visiting with the children, participating in domestic violence counseling, and maintaining contact with the DSS social worker. Ultimately, DSS filed a TPR petition. The evidence shows the following.

Mother obtained employment and appropriate housing. Mother regularly attended supervised visits and was not a safety risk. Mother transitioned to unsupervised visits, which included overnights. Mother started parenting classes and completed a substance use assessment which made no recommendations for treatment. There were no domestic violence incidents, but mother underreports her DV history and was not able to articulate skills learned from DV counseling. After 3 years with appropriate housing, mother moved into a studio with a male co-worker, is not on the lease, and did not report the move or roommate to DSS. Mother asked for different locations than her former residence for visit drop offs and pick ups. Mother was not present for several of the unannounced DSS visits during mother's unsupervised visits with her child. Mother has not engaged in mental health counseling as recommended. The child has been in DSS custody for most of his life (4 years).

Is there a likelihood of future neglect?

Willfully Leaving Child in Foster Care/Fail to Make Reasonable Progress

DSS receives a report of neglect and starts an assessment. Mother agrees child can go to a TSP with grandmother. Child goes to the TSP on May 1, 2024. On June 1, 2024, DSS files a petition and obtains nonsecure custody where child remains in placement with grandmother. The children are adjudicated neglected and at disposition continue in DSS custody. DSS files a TPR petition alleging G.S. 7B-1111(a)(2) on May 15, 2025. There is a motion to dismiss based on the child not being willfully left in foster care for one year.

Do you grant or deny the motion? Why or why not?

A 16-year-old juvenile who has been adjudicated abused is in DSS custody and living in a foster home. She has a baby, and DSS files a petition alleging the baby is dependent. DSS obtains nonsecure custody of the baby on June 1, 2024 and places the child with a relative. The baby is adjudicated dependent and continues in DSS custody. On September 1, 2024, DSS places the baby in the same foster home as her minor mother. On December 1, 2024, DSS removes the baby from the foster home and places them back with the relative. On July 1, 2025, DSS files a TPR motion. After the close of DSS evidence, the parent attorney makes a motion to dismiss based on the one year period not being satisfied.

Do you grant or deny the motion?

The juvenile was adjudicated neglected based on an injurious environment that involves unsafe housing (there physical hazards including holes in the floors and exposed electrical wiring) and domestic violence. A case plan was ordered that included making repairs to the home or obtaining other housing, participating in DV counseling, participating in parenting classes, completing a substance use assessment and complying with recommendations, submitting to random drug screens, and attending visits. A TPR was brought based on failure to make reasonable progress. Mom refused to submit to random drug screens after a substance abuse assessment made no recommendations for treatment. Most of the repairs in the home were made as mom was ensuring they occurred as she had money to make the repairs. She completed parenting classes and obtained a DVPO against her now ex-boyfriend. She started but did not complete DV counseling. She attended all visits.

Is this failure to make reasonable progress?

Is the case plan appropriate?

What's reasonable progress?

What is the time period to make progress?

Do limitations on a parent matter?

Willfully Fail to Pay Reasonable Portion of Cost of Care

What is the required placement?

What is the determinative period?

What is the reasonable cost?

What findings are required?

What is the impact of a child support order or VSA on the findings?

Does the parent have to be notified of the amount to pay or that they have to pay?

How do you consider in-kind contributions?

Willfully Fail to Pay Child Support to the Other Parent

What is the determinative time period?

What is required?

Who is the obligation to?

Children Born Out of Wedlock

What findings does the court have to make?

What is substantial financial support?

Does father have to be aware of child's existence?

If paternity is established in A/N/D case, and then TPR is filed, does this ground exist?

Dependency

What is the time period?

What is the basis for the parent's incapacity/inability?

Does foreseeable future require a specific time or date certain?

What findings are required?

Give examples of a placement that is not appropriate.

Willful Abandonment under G.S. 7B-1111(a)(7)

What is the determinative time period?

Can you consider other time periods? Why or why not?

If parent has no contact with child for 3 years but pays his child support, is that abandonment?

If parent has no contact with their child for 2 years because of a court order prohibiting contact but files a motion to modify the court order two 2 weeks before a TPR petition is filed, has he abandoned the child?

If parent was incarcerated for one year and made no efforts to contact or inquire about children, but gets released 4 months ago and makes one phone call to the children and a TPR petition alleging abandonment is filed, does the phone call prevent the court from concluding the ground exists?

What does the court need to consider when addressing willfulness?

Prior TPR and Unable or Unwilling to Establish a Safe Home

What is a safe home?

What findings are needed?

Give examples of not having a safe home?

What is the time period?

What prior TPR does not apply to this ground?