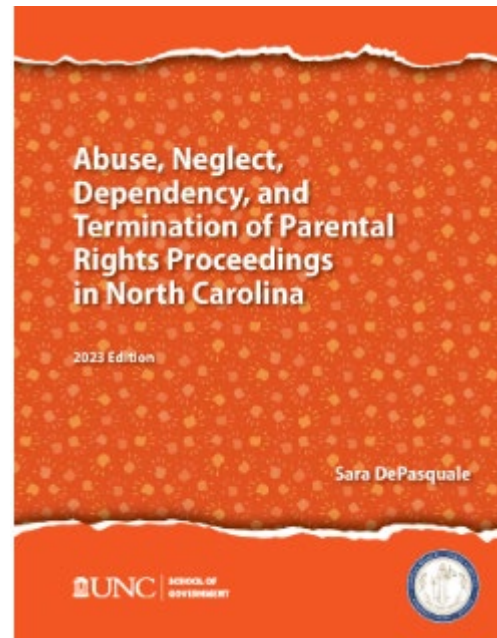
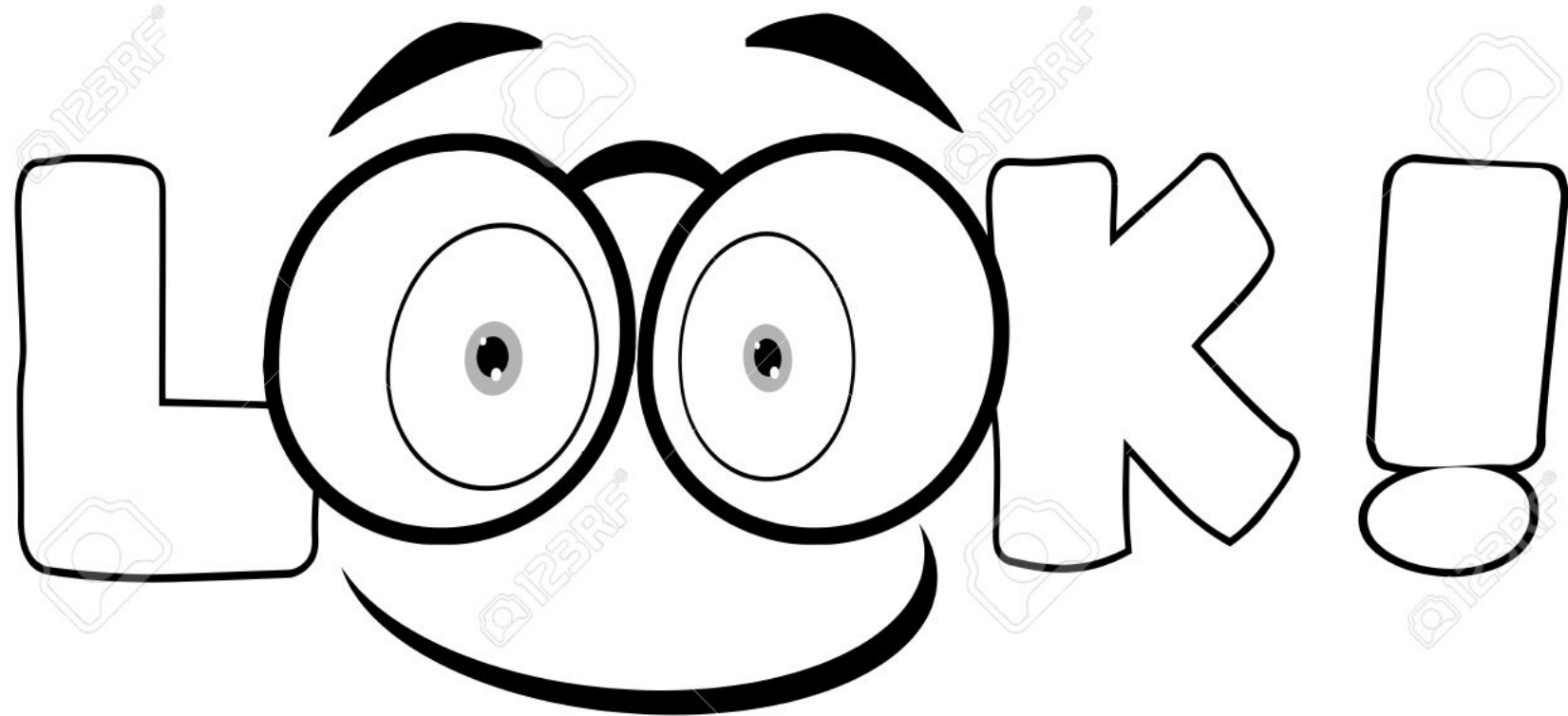


Adjudicating Abuse, Neglect, or Dependency

- Chapter 6
- And a little bit of Chapter 2





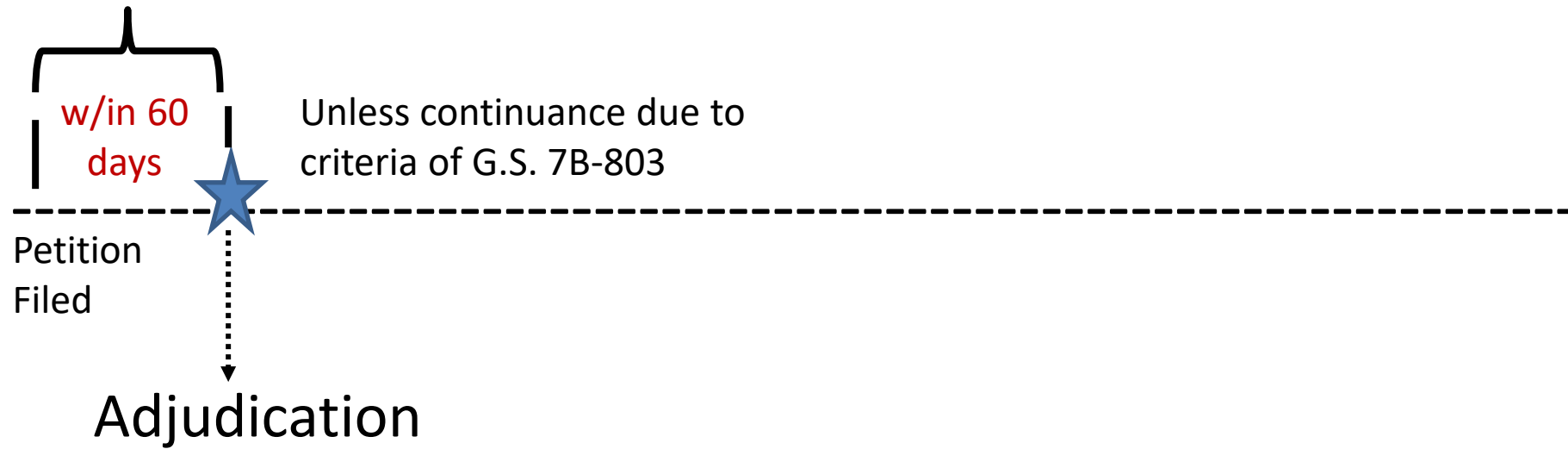
Appellate cases describe 2 Stages

Adjudication



Disposition

Timing



What's Being Decided?

- Abuse
- Neglect
- Dependency
- One, combination

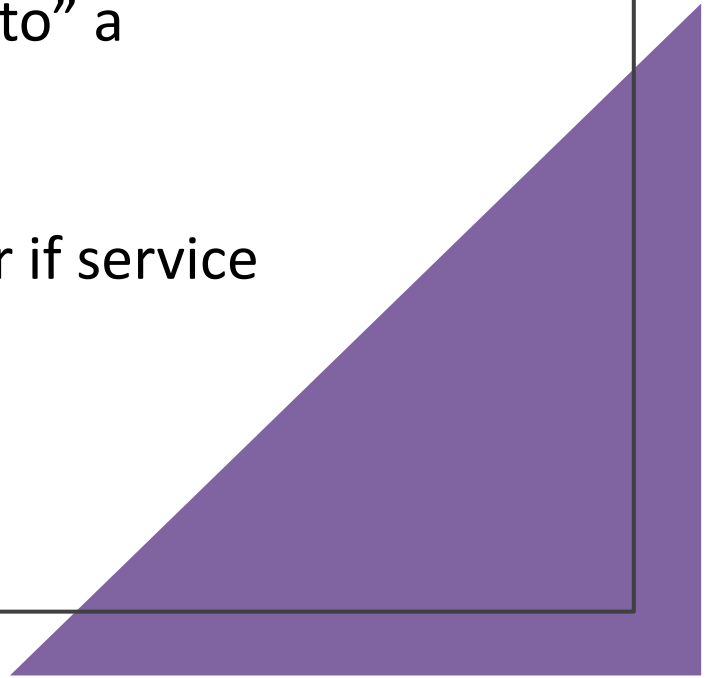
Limited by the
definitions in the
Juvenile Code



Status of the Child

Child's Status

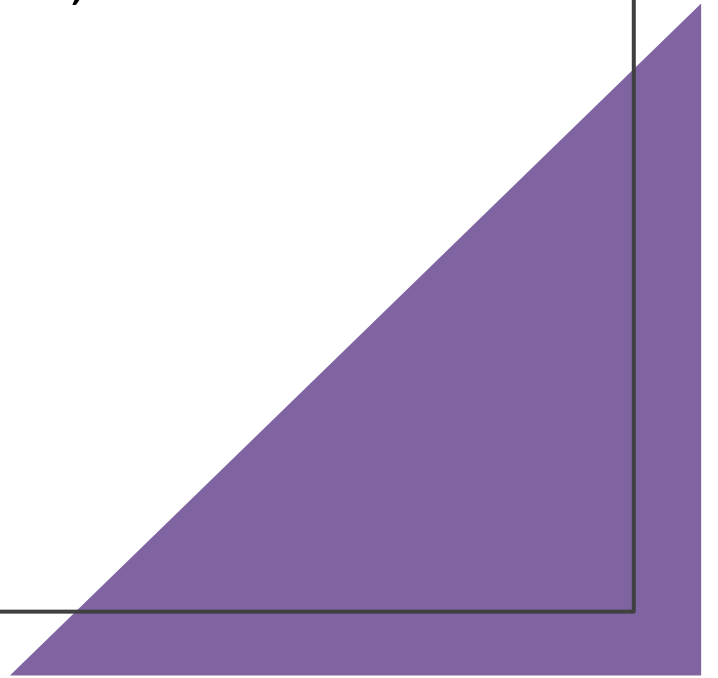
- Does not require determination of fault by a parent, guardian, custodian, or caretaker
- Adjudication is not “as to” a particular respondent
- Adjudication may occur if service on one parent*



You Are Not Deciding

Whether a parent has acted inconsistently w/ parental rights, is unfit, or has neglected the child

- It is not required for adjudication



STATE OF NORTH CAROLINA				File No. 	
 County				In The General Court Of Justice District Court Division	
IN THE MATTER OF:				JUVENILE PETITION (ABUSE/NEGLECT/DEPENDENCY) G.S. 7B-401, -400, -402	
Name And Address Of Juvenile					
Juvenile's Date Of Birth	Age	Race	Sex		
Name Of Petitioner				Condition Alleged <input type="checkbox"/> Abused <input type="checkbox"/> Neglected <input type="checkbox"/> Dependent	

DSS Burden by clear and convincing evidence of proving the allegations in the petition

G.S. 7B-805, -807(a)

Note: Cannot amend petition to conform to the evidence

Additional Factors

Neglect

- Harm
- Substantial risk of harm
- Where is this in the Juvenile Code?

Dependency

- Both parents

Scenario 1

Scenario 1

DSS files a petition regarding five children, alleging neglect based in injurious environment and dependency. They all share the same mother. However, the 2 girls have father A and the 3 boys have father B. The petition alleges and the evidence at hearing supports the following factual allegations. The children began living with grandmother in late October, after mother left them in grandma's care and went to NY. Mother has not been in contact since she left. Father A is incarcerated and has no suggestions for who can care for his daughters. Father B was not located by DSS at the time the petition was filed. When mother left the children with grandma, grandma was living in a hotel. In November, grandma moved with the children to transitional housing, but after 5 weeks, the home had no heat, no working plumbing, and no electricity. There was also no food. One week later, they were evicted. During their time with grandma, the children had poor hygiene, not regularly bathing or brushing their teeth, and had inadequate nutrition. At hearing, Father B testified DSS had his contact information and that he was available and willing and wanting his boys in his care. The court adjudicated the girls neglected. The court determined the boys were not neglected as they would receive proper care and supervision with their father and could have if DSS had contacted father.

Scenario 2: Is the child

- Abused
- Neglected
- Abused and Neglected
- None of the Above



Scenario 3

2 Procedural Paths for Adjudication

Hearing

Consent

A consent order is

- An agreement of the parties
- Their decree
- Entered on the record
- With the sanction of the court



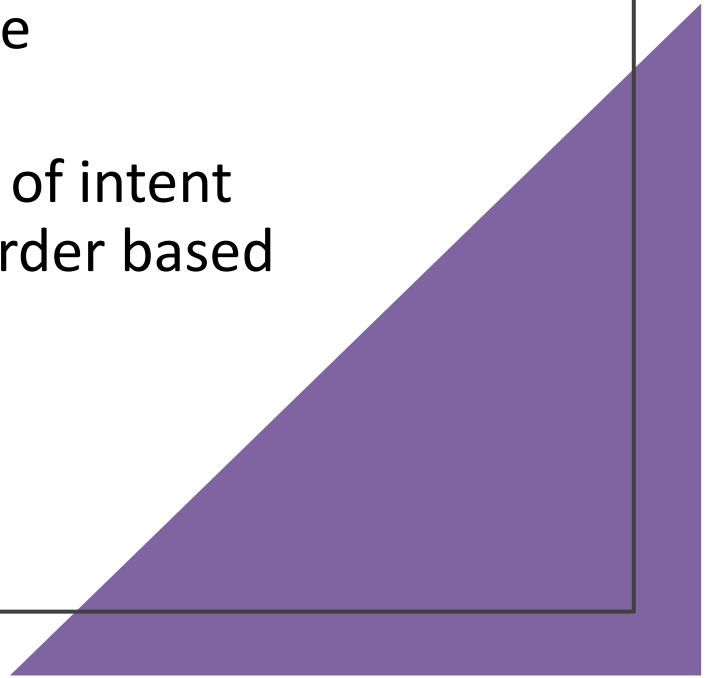
Required Procedure

G.S. 7B-801(b1)

- All parties or authorized counsel are present
- Juvenile represented by counsel
- Court makes sufficient findings of fact

Practices referred to by the COA

- Draft of a proposed consent order
- Statement by parties/attorneys of proposed consent
- Findings that parties are consenting
- Court informed parties of intent to enter adjudication order based on consent



Just because YOU say it's
the truth, doesn't make it
true. Listen to the exact
words you speak and what
is the true reality of
the situation.



somee cards
user card

Hearing 7B-802



A judicial process to adjudicate the existence or nonexistence of any of the conditions alleged in the petition

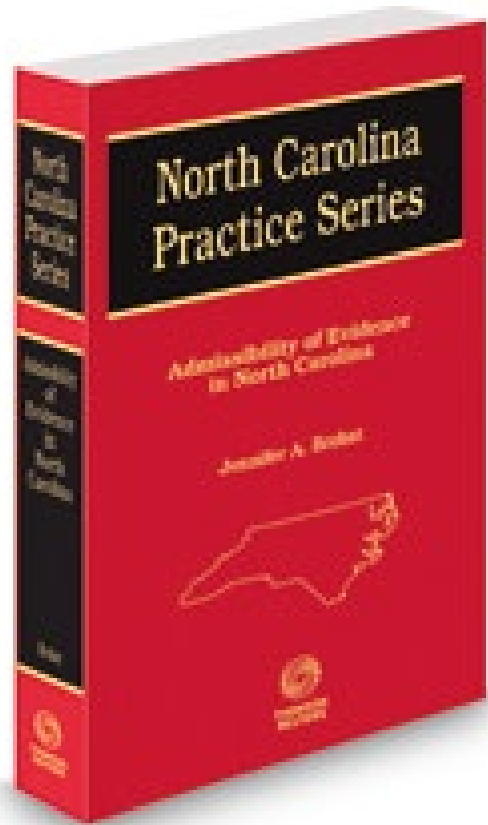


The court shall protect the rights of the child and parents to assure due process



Requires a hearing – even if respondent parent(s) not present (no judgment on the pleadings)

Evidence

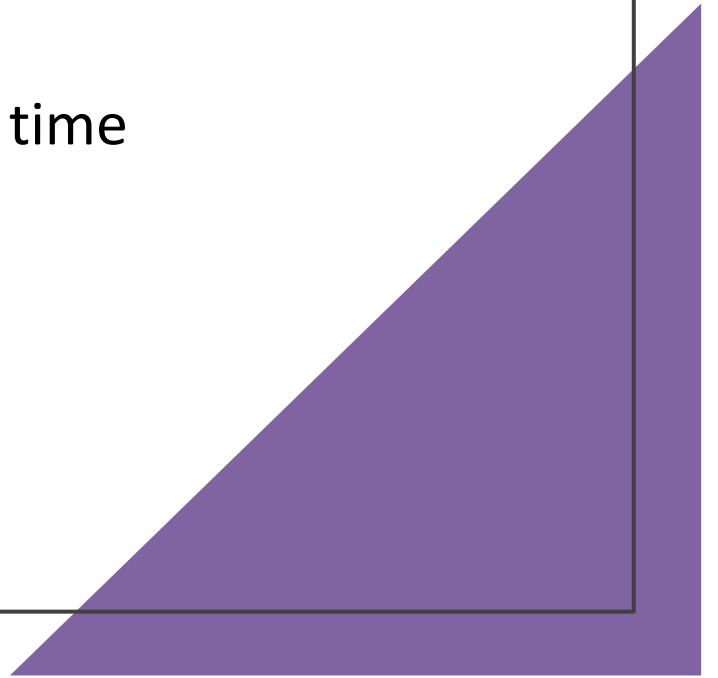


The
Rules
Apply!



Relevant Time Period

- What is DSS required to prove?
- So what is the relevant time period?



In re L.N.H.: Plain Language

§ 7B-802. Conduct of hearing.

The adjudicatory hearing shall be a judicial process designed to adjudicate the existence or nonexistence of any of the conditions alleged in a petition. In the adjudicatory hearing, the court shall protect the rights of the juvenile and the juvenile's parent to assure due process of law. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60.)

conditions underlying determination of whether a juvenile is an abused, neglected, or dependent juvenile are fixed at the time of the filing of the petition. This inquiry focuses on the **status** of the child at the time the petition is filed, not the post-petition actions of a party.

COA exceptions to the time period



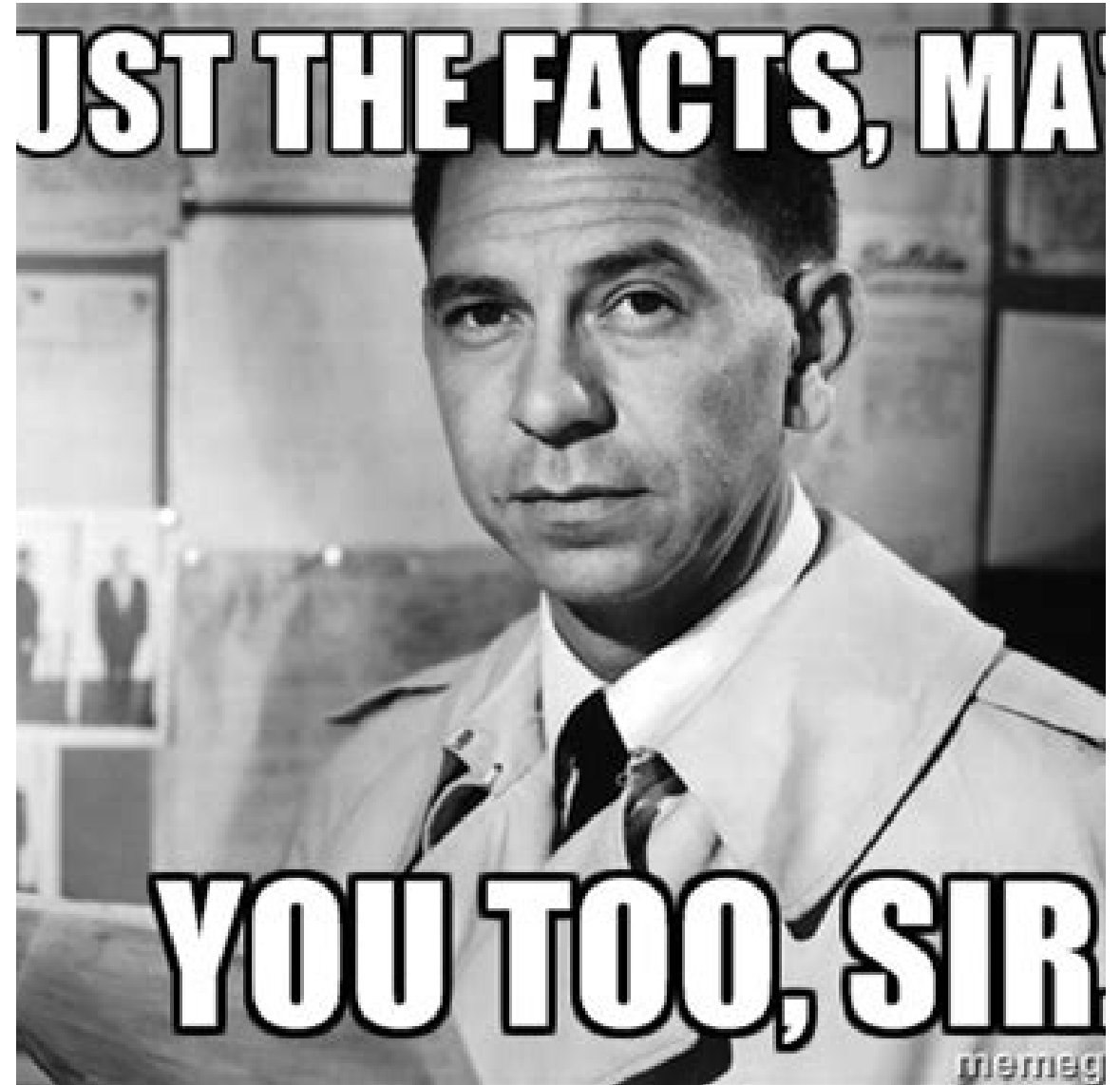
“Fixed and ongoing circumstance”



Neglect: Long period of separation, treat like TPR

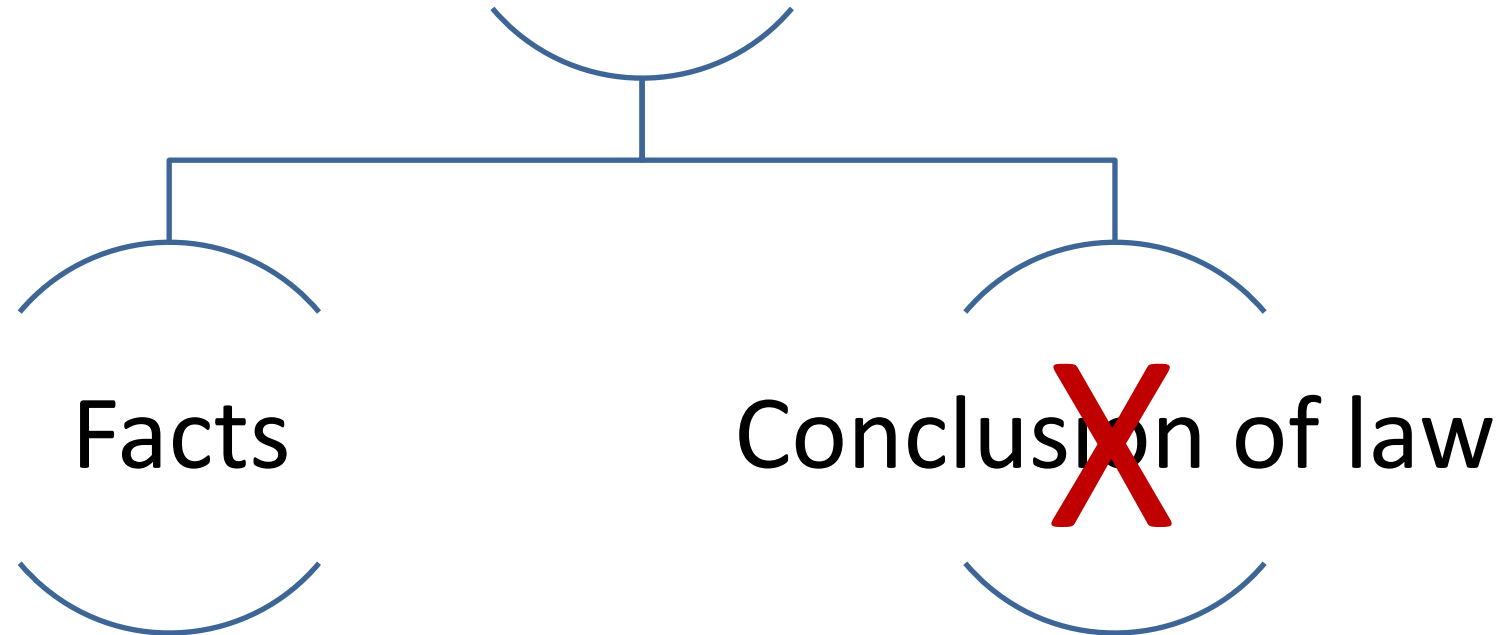
Stipulations

- Judicial admissions
- Binding on the party who agrees to them





Stipulate to



“Stipulations as to questions of law are generally held invalid & ineffectual & are not binding on trial or appellate courts” *in re R.L.G.*
Court determines if facts meet alleged condition
Abuse, Neglect, Dependency

Stipulations

G.S. 7B-807(a)

- In writing, signed by each party, submitted to the court
- Read into record with oral statement of agreement from each party stipulating

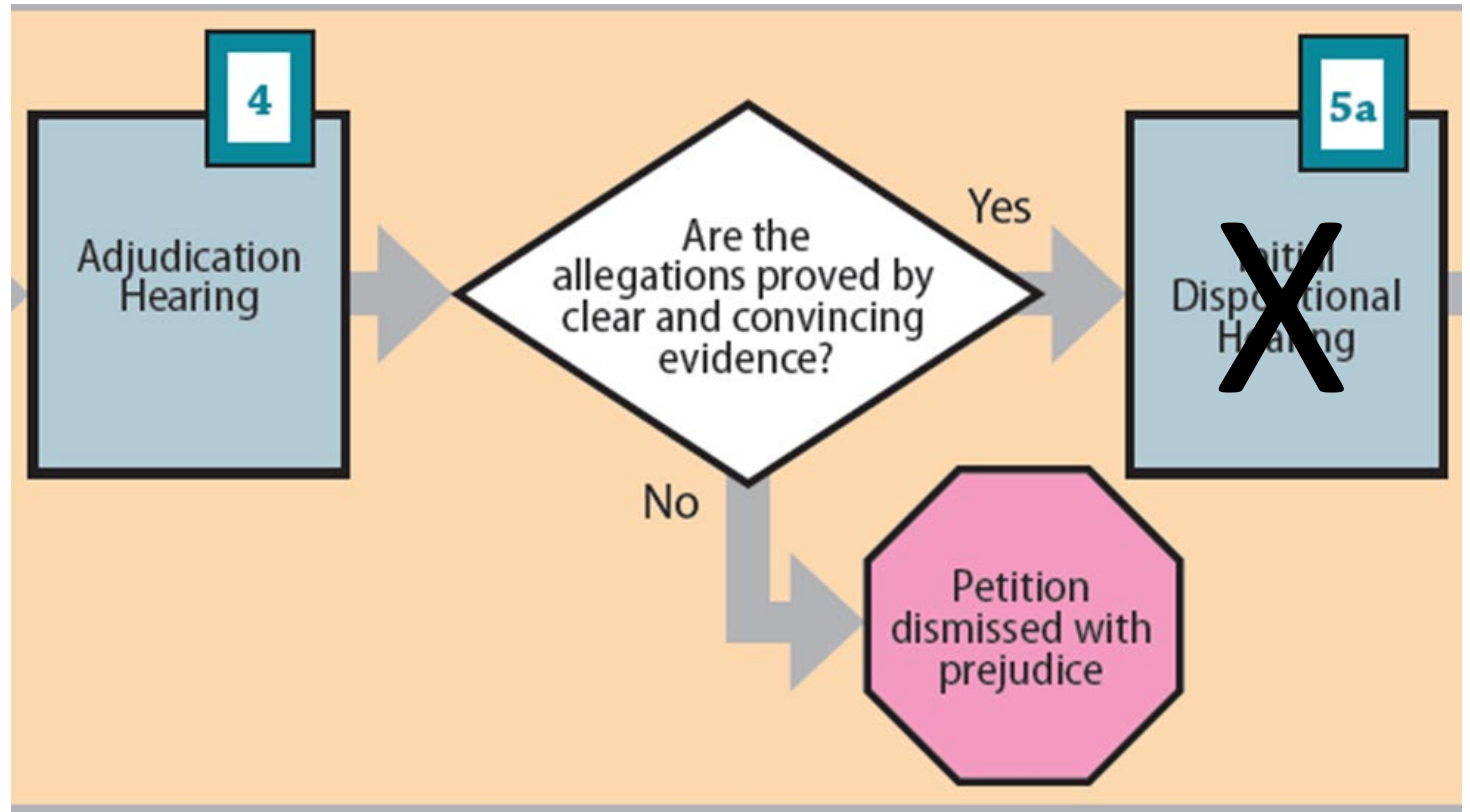


Scenario 4

STATE OF NORTH CAROLINA				File No. <input type="text"/>	
<input type="text"/> County				In The General Court Of Justice District Court Division	
IN THE MATTER OF				JUVENILE PETITION (ABUSE/NEGLECT/DEPENDENCY)	
<i>Name And Address Of Juvenile</i> <input type="text"/>					
<i>Juvenile's Date Of Birth</i>	<i>Age</i>	<i>Race</i>	<i>Sex</i>		
<i>Name Of Petitioner</i>	<input type="text"/>				
				G.S. 7B-101, -400, -402	
				<i>Condition Alleged</i> <input type="checkbox"/> Abused <input type="checkbox"/> Neglected <input type="checkbox"/> Dependent	

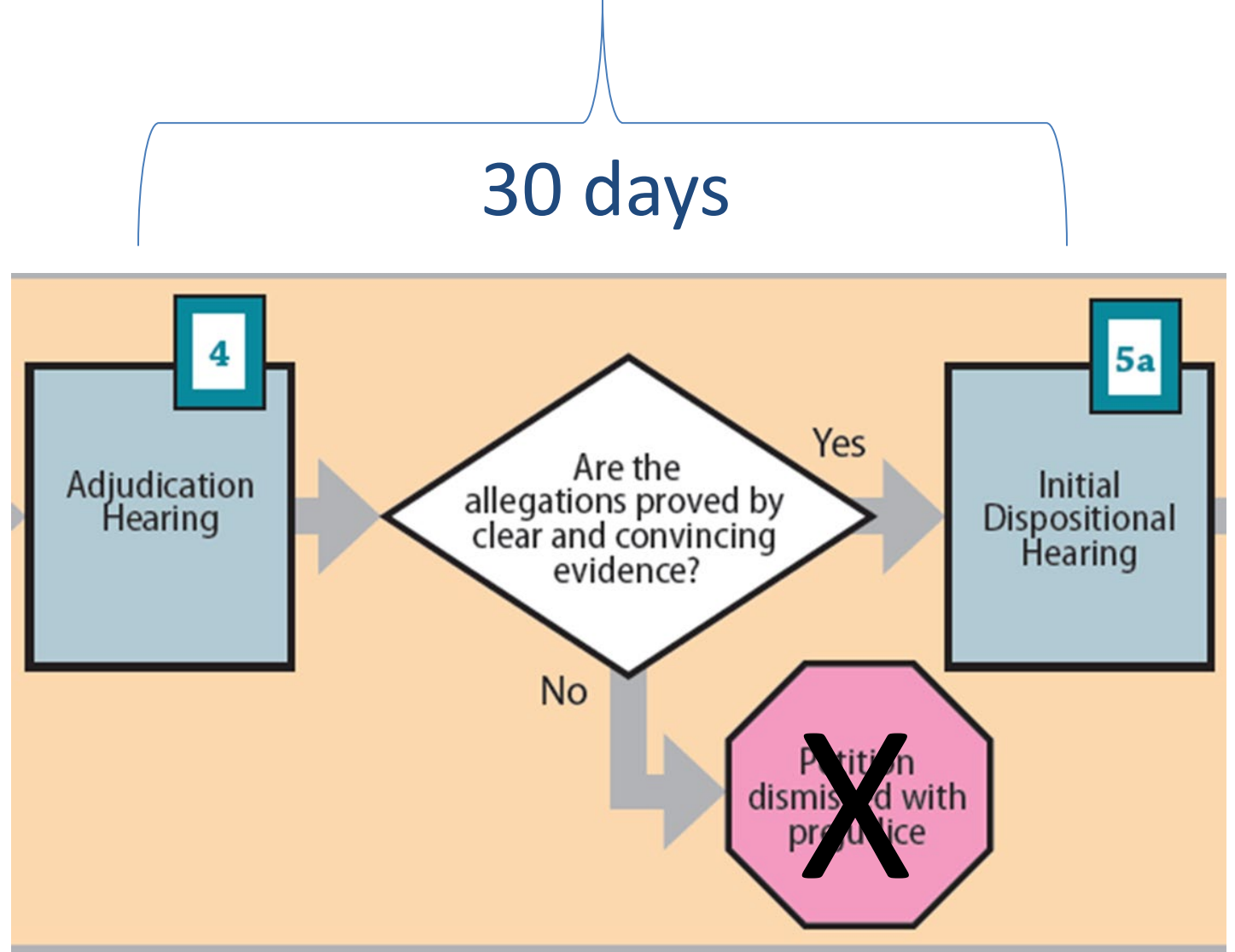
Scenarios 5-8

If DSS fails
to meet its
burden



If Nonsecure
custody, child
returns home

If DSS meets
its burden

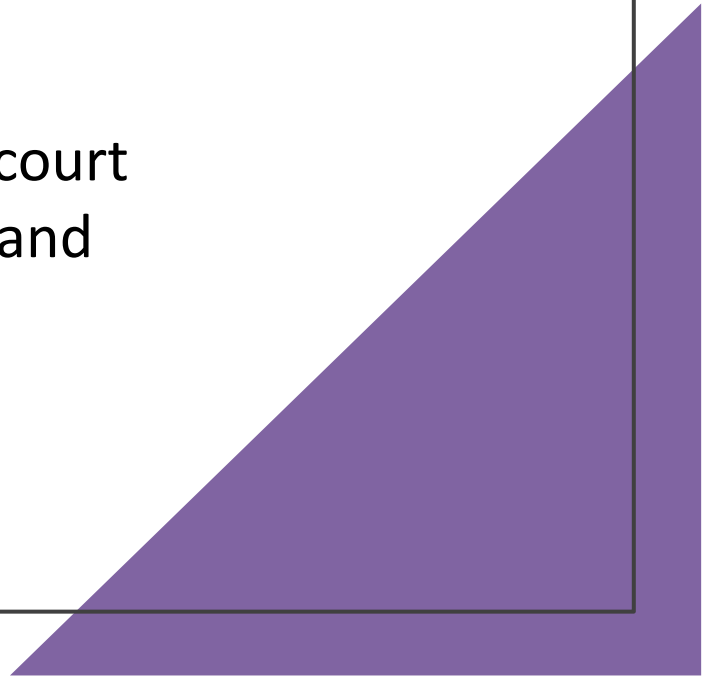


Can you move right to Disposition

Yes, But...Best Interest Standard

Practice Tip

If adjudication and disposition hearings are consolidated, court must apply the proper evidentiary standard at each stage and order



Keep KIDS in Mind



Benchmark