



North Carolina Criminal Law Blog

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Findings Required in Delinquency Dispositional Orders

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Dispositional orders in delinquency cases must contain “appropriate findings of fact and conclusions of law.” **G.S. 7B-2512(a)**. What constitutes appropriate findings of fact is a question that North Carolina appellate courts have repeatedly addressed. This blog explains the requirement for findings in delinquency dispositional orders and provides examples of findings that the North Carolina Court of Appeals has found to be sufficient.

Required Findings

The court must choose a disposition, within the allowable alternatives for the youth’s statutorily prescribed disposition level, that protects the public and meets the needs and best interests of the juvenile. **G.S. 7B-2501(c)**. That determination must be based on the following five statutory factors:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

As the Court of Appeals stated in **Matter of N.M., 290 N.C.App. 482, 484 (2023)**, “[t]his Court has held ‘the trial court is required to make findings demonstrating that it considered the [N.C. Gen. Stat.] § 7B-2501(c) factors in a dispositional order entered in a juvenile delinquency matter.’ **In re V.M., 211 N.C. App. 389, 391–92, 712 S.E.2d 213, 215 (2011)**.” While it is therefore clear that written findings showing that the court considered all five statutory factors are required, the exact content needed to sufficiently support such a showing raises question.

Reports Incorporated by Reference

The dispositional form orders provided by the North Carolina Administrative Office of the Courts all include checkboxes in the findings section to indicate that the court received, considered, and incorporates the contents of a predisposition report, risk assessment, and needs assessment into the dispositional order. **AOC-J-461**, **AOC-J-475**, **AOC-J-462**, **AOC-J-467**, **AOC-J-468**.

The Court of Appeals summarized differing caselaw regarding the role of these incorporated documents in **In re T.O.C., 296 N.C.App. 303 (2024)**, an unpublished decision. The court explained that there are two threads of appellate caselaw related to the role of documents incorporated by reference in the dispositional order. One thread of cases included the content of those documents in assessing whether the findings were sufficient. **In re I.W.P., 259 N.C. App. 254, (2018)**, **In re J.A.D., 283 N.C. App. 8, (2022)**. In the other set of cases, the court did not consider the contents of the documents incorporated by reference in assessing the sufficiency of the order findings. *In the Matter of N.M.*, at 485, **In re A.G.J., 291 N.C. App. 322, (2023) (Stroud, J., dissenting)(vacated by In the Matter of A.G.J., 386, N.C. 651 (2024))**.

The court in *T.O.C.* held that it was necessary to follow the older line of cases and to prioritize substance over form. In so doing, the court did consider the contents of the documents incorporated by reference as part of the assessment of the sufficiency of the findings. However, even when considering the contents of those documents, the court found that the findings were insufficient. The only other findings in the order were a recitation of the juvenile’s risk, needs, and strengths scores. The court held that

“These findings merely state the scores on those assessments and direct us to the documents themselves. Stating a score on an assessment without further explanation is not a finding regarding the: (1) seriousness of the offense; (2) the need to hold the juvenile accountable; (3) the importance of protecting the public; (4) the degree of the juvenile’s culpability; and (5) the juvenile’s rehabilitative and

treatment needs. N.C. Gen. Stat. § 7B-2501(c). Additionally, the documents themselves do not sufficiently address each of the five factors.”

The decisions in both *In re I.W.P.* and *In re J.A.D.*, the cases that considered the content of the incorporated documents, reached the same result. The findings in the respective dispositional orders were found to be insufficient even when considering the contents of the incorporated documents. It appears that even if the contents of the incorporated documents are considered part of the findings, merely incorporating the predisposition report and the risk and needs assessments into the dispositional order does not sufficiently address the need to make written findings regarding the five statutory factors.

Sufficient Findings

The following are examples of written findings for each of the five statutory factors that the Court of Appeals upheld as sufficient.

(1) The seriousness of the offense

- The juvenile was adjudicated for a violent or serious offense and Level 3 is authorized by statute. ***In the Matter of K.S.*, 294 N.C. App. 315 (June 4, 2024), Unpublished.**
- The juvenile admitted to two unrelated offenses of felony breaking and entering and breaking and entering a motor vehicle. The court noted that the juvenile’s ongoing criminal activity escalated from misdemeanor offenses to felonies. ***In the Matter of W.M.C.M.*, 277 N.C.App. 66, 77 (2021).**
- The juvenile was adjudicated on a serious charge of robbery with a dangerous weapon. ***In the Matter of D.E.P.*, 251 N.C.App. 752, 760-761 (2017).**

(2) The need to hold the juvenile accountable

- The juvenile was on probation (Level 2 disposition) and continually violated the terms of his electronic monitoring, up to and including the night before the court date at which

he admitted being in willful violation of his probation. *In the Matter of K.S.*

- The court made several attempts to work with the juvenile and get appropriate services in place. The court noted the juvenile had several offenses pending, his criminal activity was ongoing and escalating, and he exhibited aggressive and assaultive behaviors and language. The findings also highlighted the juvenile's violent behaviors and flight which had consistently occurred and increased despite DSS' ineffective interventions and placements. *In the Matter of W.M.C.M.* at 77.
- Findings that set out in some detail the juvenile's repeated failure to comply with the terms of his probation, despite being given several opportunities to remain on probation. *In the Matter of D.E.P.* at 761.

(3) The importance of protecting the public safety

- The offense that formed the basis of a Level 2 disposition was a Class H felony. *In the Matter of K.S.*
- The juvenile admitted to two unrelated offenses of felony breaking and entering and breaking and entering a motor vehicle. The court noted the juvenile's ongoing criminal activity escalated from misdemeanor offenses to felonies (these same findings supported consideration (1) the seriousness of the offense). *In the Matter of W.M.C.M.* at 77.
- Findings that the juvenile was adjudicated delinquent for committing an armed robbery and that he was suspended from school for fighting. *In the Matter of D.E.P.* at 761.

(4) The degree of culpability indicated by the circumstances of the particular case

- The juvenile's admission of a willful violation of probation. *In the Matter of K.S.*
- Findings included that the court continued disposition for an additional three months to give the juvenile an opportunity to comply. Further, the juvenile displayed aggressive and assaultive behavior and inappropriate language. The juvenile also had numerous evaluations and admitted to the charges, had multiple offenses, and there was an escalating nature to his criminal offenses rising to felonies. *In the Matter of W.M.C.M.* at 78.
- The findings set out various ways in which the juvenile violated probation, including possessing marijuana, violating curfew, missing school, and being suspended from school. These violations were based upon the juvenile's own actions and did not suggest that some other person was partly responsible for his violating probation. *In the Matter of D.E.P.* at

(5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

- The rehabilitative and treatment needs of the juvenile as indicated by a risk and needs assessment along with the fact that over the last month, the juvenile's behavior improved and there was some progress at a program. This indicated the court's belief the treatment would be helpful to the juvenile. *In the Matter of W.M.C.M.* at 78.
- Express references to the juvenile's failure to obtain treatment for substance abuse. *In the Matter of D.E.P.* at 761.

The Box for “Other Findings” is Not Optional

The dispositional form orders include a finding called “other findings” with a blank box below the following language:

“State any findings regarding **the seriousness of the offense(s); the need to hold the juvenile accountable; the importance of protecting the public; the degree of the juvenile’s culpability; the juvenile’s rehabilitative and treatment needs;** and available and appropriate resources. Also use this space for any findings that are required to support a particular disposition, such as a finding of the juvenile’s ability to pay if the Court is ordering restitution (emphasis added).”

Given the caselaw discussed in this post, it is best to place written findings related to the five statutory factors (in bold above) in this blank box. Additional pages can be attached if the findings do not fit in the space on the form. The examples of sufficient findings and caselaw about the incorporation of reports into the order indicate that while the findings do not have to be voluminous, they do need 1) to indicate that the court considered each of the five statutory factors and 2) go beyond predisposition report and risk and needs assessment information incorporated into the order.