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Findings Required When Placing Juvenile in DSS Custody as Delinquency Disposition

In the Matter of D.H., ___ N.C.App. ___ (August 20, 2025)

Held: Vacated and Remanded

Facts: The juvenile was held in secure custody prior to adjudication after being charged with bringing a knife to school. He was adjudicated delinquent for using, threatening to use, or displaying a firearm or other deadly weapon. After adjudication the court ordered the juvenile into the nonsecure custody of DSS and continued to hold him in detention until the disposition hearing. A level 1 disposition was ordered and included five days in detention and physical and legal custody to DSS under G.S. 7B-2506(1)(c). A nonsecure and permanency planning hearing was calendared. DSS assumed custody of the juvenile after his release from detention. DSS filed an appeal alleging that the court lacked subject matter jurisdiction to order continued custody with DSS, that the statutorily required findings were not made, and that the trial court lacked competent evidence to show that the parents were unable to provide alternate arrangements to meet the juvenile's needs.

Opinion:

Jurisdiction does not terminate with the issuance of a dispositional order.

Jurisdiction lasts until the court terminates jurisdiction or the juvenile turns 18 (when their offense was committed under the age of 16). Neither of these things had occurred so the trial court continued to have subject matter jurisdiction. Additionally, the statutory requirement for review hearings under G.S. 7B-906.1 requires the trial court to oversee the placement.

A finding that it is contrary to the juvenile's best interest to remain in his home is required when ordering DSS custody as a dispositional alternative.

A finding that continuation in the juvenile's home would be contrary to their best interest is required when placing a juvenile in DSS custody as a disposition under G.S. 7B-2506(1)(c). There was no such finding in the dispositional order. This finding was included in the previously issued nonsecure custody order. However, that does not cure the failure to include it in the dispositional order. The matter is remanded for the trial court to include the finding in its order.

The court is not required to find that the parents were unable to provide alternate arrangements to meet the juvenile's needs.

The court may continue the case to allow the family an opportunity to meet the juvenile's needs under G.S. 7B-2501(d). This is not mandatory. The court is not required to make this consideration determinative in disposition. This argument is without merit.

Officer Identification of Marijuana by Odor Alone Was Sufficient to Establish Probable Cause

In the Matter of J.B.P., __ N.C.App. ____ (July 2, 2025)

Held: Vacated in part; Reversed and remanded in part

Facts: law enforcement officers were conducting surveillance on a home suspected to be involved in distribution of controlled substances. An officer testified that he smelled what he perceived to be the odor of marijuana as he drove past a car parked in front of the house. Later, the juvenile drove the vehicle away and the officer conducted a traffic stop. The officer testified he smelled the odor of marijuana coming from the vehicle as he approached and that he smelled the odor of marijuana on the juvenile when he stepped out of the car. Based on the odor, the officer searched the car and seized marijuana, a digital scale, and a handgun. The juvenile filed a motion to suppress the seized evidence alleging that the odor alone was not sufficient to establish probable cause. The trial court took notice of a 2019 memo issued by the State Bureau of Investigation (SBI) that stated that an officer's sight or smell of marijuana alone is not sufficient to establish probable cause because marijuana is indistinguishable from hemp. The trial court granted the motion to suppress and dismissed the charges, finding that the officer did not have probable cause to believe that there was marijuana rather than legal hemp in the car. The State appealed.

Opinion:

The smell of marijuana was sufficient to establish probable cause to search the juvenile's vehicle

Relying on the holding in *State v Reel*, 297 N.C.App. 205 (2024), the court held that the officer's identification of the odor as marijuana was sufficient to establish probable cause because the officer had special narcotics training and extensive field experience in identifying marijuana based on odor and physical appearance. When an officer has this training and experience, their belief that they smell marijuana is sufficient to establish a reasonable probability that there is marijuana in the car, justifying a warrantless search of the vehicle. The trial court erred in granting the motion to suppress and in dismissing the charges.

Delaware Requirement for Sex Offender Registration Based on Juvenile Adjudication Triggers Requirement for Sex Offender Registration in North Carolina

State v. Jackson, 918 S.E.2d 917, __ N.C.App. ____ (July 16, 2025)

Held: Affirmed

Facts: The defendant was adjudicated delinquent in Delaware in 2008 for first degree rape of his younger sister. He was placed on the Delaware sex offender registry as was required under Delaware law. He moved to North Carolina and was notified to register with North Carolina's sex offender registry in March of 2022. The defendant filed a petition for judicial determinations of sex offender registration requirement and the trial court determined that he was required to register in North Carolina

Opinion:

Defendant was rightly required to register in North Carolina as a sex offender because Delaware’s definition of conviction for the purposes of sex offender registration applies and the defendant was required to register as a sex offender under Delaware law.

An out-of-state person is required to register in North Carolina when that person has a reportable conviction from another state and becomes a resident of North Carolina or is present in North Carolina for 15 days. G.S. 14-208.7(a). Reportable convictions include “a final conviction in another state of an offense that requires registration under the sex offender registration statutes *of that state.*” Slip op. at 4. Delaware’s law regarding whether the adjudication is a reportable conviction requiring registration governs whether the adjudication counts as a reportable conviction under this provision of North Carolina law. Delaware law requires registration and the defendant therefore has a reportable conviction requiring registration in North Carolina. The proposition that the court cannot rely on out-of-state frameworks that materially deviate from North Carolina law, as explained in *State v. Melton*, 371 N.C. 750, 758 (2018), does not apply because the North Carolina statute specifically incorporates the law of the other jurisdiction in this situation. The rule of lenity does not apply to this case because there is no ambiguity. The trial court’s order requiring the defendant to register is affirmed.

H. 307 Probation and Post Release Supervision Changes

Sec. 8.(a)-(d)

- G.S. 7B-2510 is amended to add a new subdivision (c1) that allows for two one-year extensions of probation term when probation is ordered based on an adjudication for a Class A, B1, or B2 felony offense. The total period of probation for these offenses may reach three years. Extensions may be granted if necessary to protect the community or to safeguard the welfare of the juvenile. These are the existing criteria for other extensions of probation.
- G.S. 7B-2510(d) is amended to add the prosecutor to the list of people authorized to make a motion for review of the juvenile’s progress on probation.
- G.S. 7B-2511 is amended to require a hearing to terminate probation when the case involves a victim as defined in Article 20A of G.S. Chapter 7B. The juvenile must have notice and be present. If the victim has requested notice of court proceedings in the matter, the Division of Juvenile Justice must provide the victim notice of the hearing. The prosecutor, the victim, or the person who may assert the victim’s rights under Article 20A of G.S. Chapter 7B must have an opportunity to be heard at the hearing.
- G.S. 7B-2514 is amended to add a new subdivision (b1) that requires every post-release supervision plan for juveniles committed to the Division of Juvenile Justice for placement at a Youth Development Center based on an adjudication of a Class A, B1, or B2 felony offense to include a mandatory three-year period of post-release supervision.
- G.S. 7B-2514(g) is amended to require a hearing to terminate post-release supervision when the juvenile’s commitment was based on an adjudication of a Class A, B1, or B2 felony offense. The juvenile must have notice and be present. If the victim has requested notice of court proceedings in the matter, the Division of Juvenile Justice must provide the victim notice of the hearing. The prosecutor, the victim, or the person who may assert the victim’s rights under Article 20A of G.S. Chapter 7B must have an opportunity to be heard at the hearing.
- Applies to offenses committed on or after December 1, 2025.