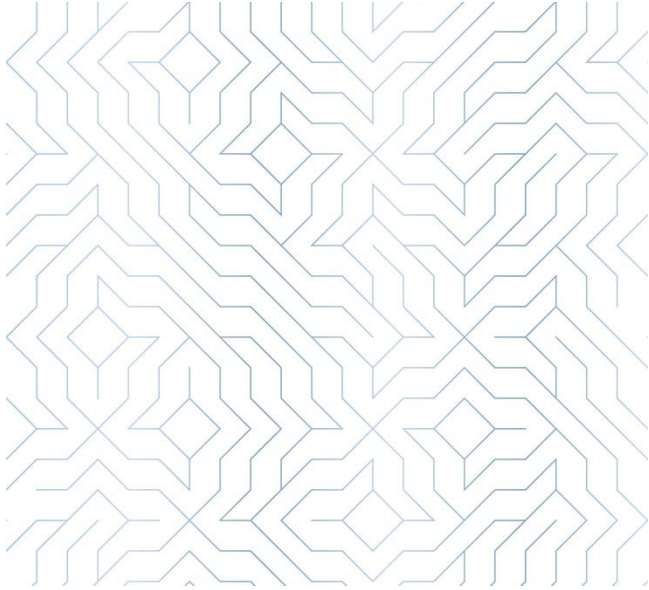




Motions to Suppress Statements Made by a Juvenile

August, 2026

Juvenile Rights

Custodial Interrogation

Invocation and Waiver of Rights

Constitutional
privilege against
self-incrimination
(Miranda)

Enhanced
statutory rights

Everyone under age
18

State v. Fincher, 309 N.C. 1
(1983)



Rights for youth under age 16

G.S. 7B-2101(a)

Must be advised of these rights before custodial interrogation:

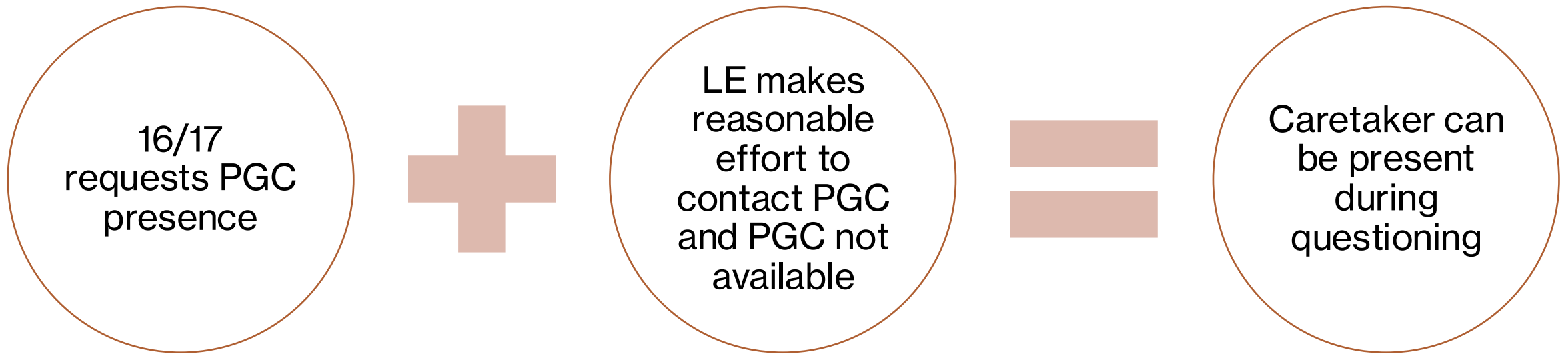
- to remain silent
- that any statement the juvenile makes can be and may be used against them
- to have a parent, guardian, or custodian present during questioning
- to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation

Rights for youth age 16 &17

G.S. 7B-2101(b)

Must be advised of these rights before custodial interrogation:

- to remain silent
- that any statement the juvenile makes can be and may be used against them
- to have a parent, guardian, custodian, or caretaker present during questioning
- to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation



G.S. 7B-2101(a2)

Who Counts?

What if Sam:

- Has no legal parent and has been living with his uncle for the last six years
- Is in DSS custody due to a neglect case and there has been no petition filed to terminate his mom's parental rights
- Lives in a transition home program operated by Methodist Home for Children under their contract with DJJDP

Guardian or Custodian

Must have established a **legal relationship** with the child through a legal process

State v. Oglesby, 361 N.C. 550 (2007)

State v. Benitez (Benitez I), 258 N.C. App. 491 (2018).



Caretaker (G.S. 7B-2101(e))

stepparent,

foster parent,

adult member of the juvenile's household,

adult entrusted with the juvenile's care,

potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department,

any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or

any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services.”

Juvenile rights

Custodial Interrogation

Invocation and waiver of rights

In Custody?

1

Objective assessment,
given totality of
circumstances

Was there a formal arrest or a restraint on the juvenile's freedom of movement to the degree associated with a formal arrest?



Child's age (if known or objectively apparent to reasonable officer) must be included in objective analysis.

How would a reasonable child have felt in that situation?

J.D.B. v. North Carolina, 564 U.S. 261 (2011)

Custody Factors to consider

whether the juvenile
is told they are
under arrest or free
to leave

the location of the
questioning

the voluntary nature
of the juvenile's
participation in
questioning

the length of
questioning

whether the juvenile
is offered breaks

the presence of
uniformed officers
and their weapons



Not Custody

In re D.A.C., 225 N.C. App. 547 (2013)

- 14-year-old questioned by 2 armed officers (1 in uniform)
- In yard, in daylight
- Parents were home and told him to cooperate
- No formal restraint
- Stood at arm's length
- 5 minutes

In Custody

State v. Watson, 250 N.C. App.
173 (2016)

- 16-year-old
- Arrested on city bus
- Transported to police station
- Handcuffed and shackled to the floor





Not Custody

State v. Yancey, 221 N.C. App. 397 (2012)

- 17 years and 10 months old
- Voluntarily rode with 2 plain-clothes officers in unmarked car
- Rode in front seat
- Told was free to leave any time
- Lasted under 2 hours

In Custody

In re L.I., 205 N.C. App. (2010)

- Juvenile in backseat of car initially stopped for driver not wearing seatbelt
- Officer asked her to produce marijuana he “knew she had”
- Juvenile refused and appeared to reach into her pants
- Placed juvenile in investigative detention, placed handcuffs
- Placed in backseat of patrol car





In Custody

In re M.L.T.H., 200 N.C. App. 476
(2009)

- 15-year-old

- Interview room at sheriff's
department

- Family came to sheriff's
department at request of law
enforcement

Common Factors Not Custody

Told free to leave

Nonsecure locations

Voluntariness of juvenile participation

Offered breaks

Absence of uniforms/weapons

**Common
Factors
custody**

Law enforcement
interview room

Formally taken
into custody

SCHOOLHOUSE CUSTODY





In re D.A.H., 277 N.C. App. 16, 28 (2021)

Principal and SRO (in uniform) are seated together on one side of the table

Principal questions Deacon

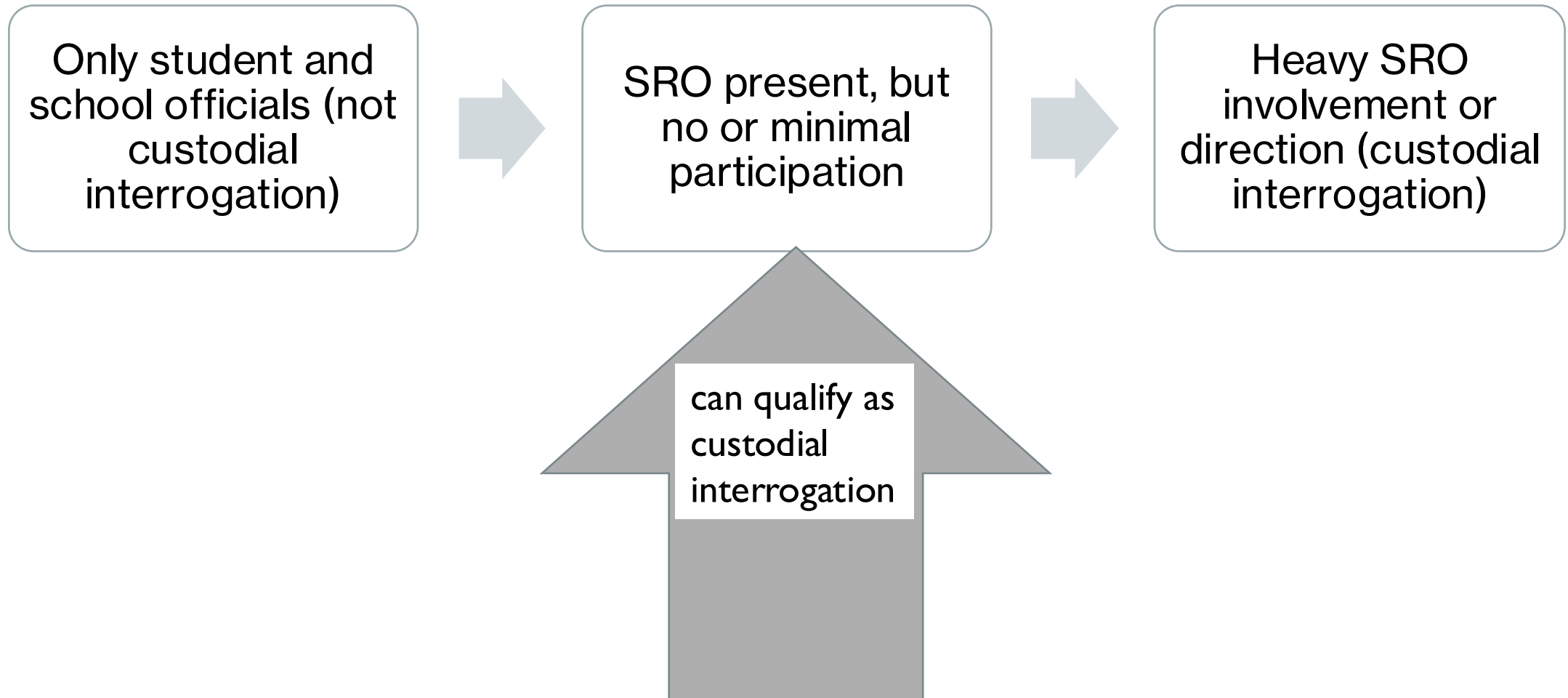
Deacon says he sold the marijuana

Principal calls Deacon's guardian who then comes

Principal tells Deacon to tell guardian and Deacon repeats confession

“...the Fifth Amendment requires that minors under criminal investigation be protected against making coerced, inculpatory statements, even when—and perhaps, in some cases, particularly because—they are on school property... Increased cooperation between educators and law enforcement cannot allow the creation of situations where no *Miranda* warnings are required just because a student is on school property.” (¶ 35)

SRO Involvement





SRO Involvement Not
By Itself Dispositive

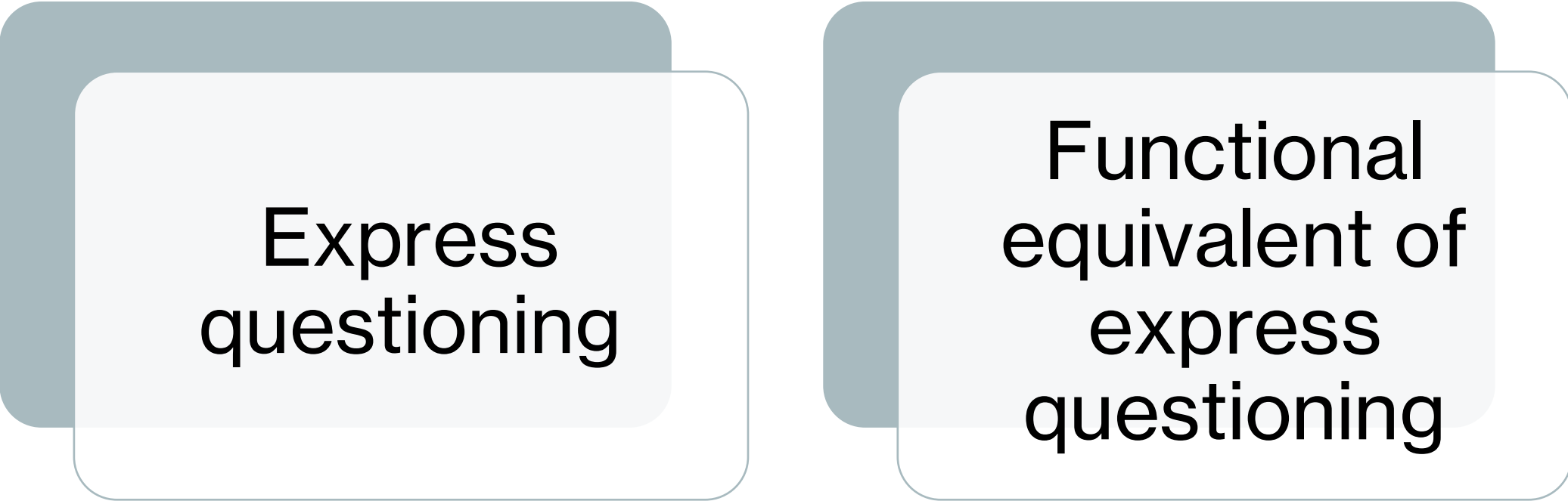
Factors Most Relevant in Determining Custody in Context of Schoolhouse Interview

-
- (1) traditional indicia of arrest;
 - (2) the location of the interview;
 - (3) the length of the interview;
 - (4) the student's age;
 - (5) what the student is told about the interview;
 - (6) the people present during the interview; and,
 - (7) the purposes of the questioning.

Interrogation?



2



**Express
questioning**

**Functional
equivalent of
express
questioning**

Functional equivalent of express questioning

Words or actions by law enforcement that they should have known were reasonably likely to elicit an incriminating response



Functional equivalent of express questioning factors:

1. Officer intent
2. Practice designed to elicit incriminating response
3. Officer knowledge about juvenile's unusual susceptibility to a specific form of persuasion





Interrogation

In re L.I., 205 N.C. App.
(2010)

-Officer statement that
taking drugs into the jail is
an additional charge



Functional equivalent of questioning

State v. Smith, 317 N.C. 100 (1986)

- 16-year-old brought to PD for questioning
- Read *Miranda* rights and requested mom
- While looking for mom, officers told Smith not to speak and they had things to tell him
- Shared that another suspect implicated Smith, charges could be murder, and a confession could be mitigating to court

A photograph of a classroom. In the foreground, there are two wooden desks with orange plastic chairs. The background features a large black chalkboard mounted on a light blue wall. The floor is made of grey tiles.

Factors Most Relevant in Determining Interrogation in Context of Schoolhouse Interview

nature of the questions asked (interrogative or mandatory)

willingness of the juvenile's responses

extent of the SRO's involvement

Juvenile rights

Custodial Interrogation

Invocation and Waiver of Rights

No waiver of parent, guardian,
custodian, or attorney when juvenile is
under age 16

(G.S. 7B-2101(b))



Invocation of rights

Must be unambiguous

“Um, can I call my mom?” –
ambiguous

State v. Saldierna, 369 N.C. 401
(2016)

Only the juvenile can waive their rights

Mom couldn't waive privilege against self-incrimination that belonged to her 10-year-old child (In re Ewing, 83 N.C. App. 535 (1986))

Parental refusal to be present does not constitute waiver by juvenile

(In re Butts, 157 N.C. App. 609 (2003), State v. Branham, 153 N.C. App. 91(2002))

WAIVER MUST BE:

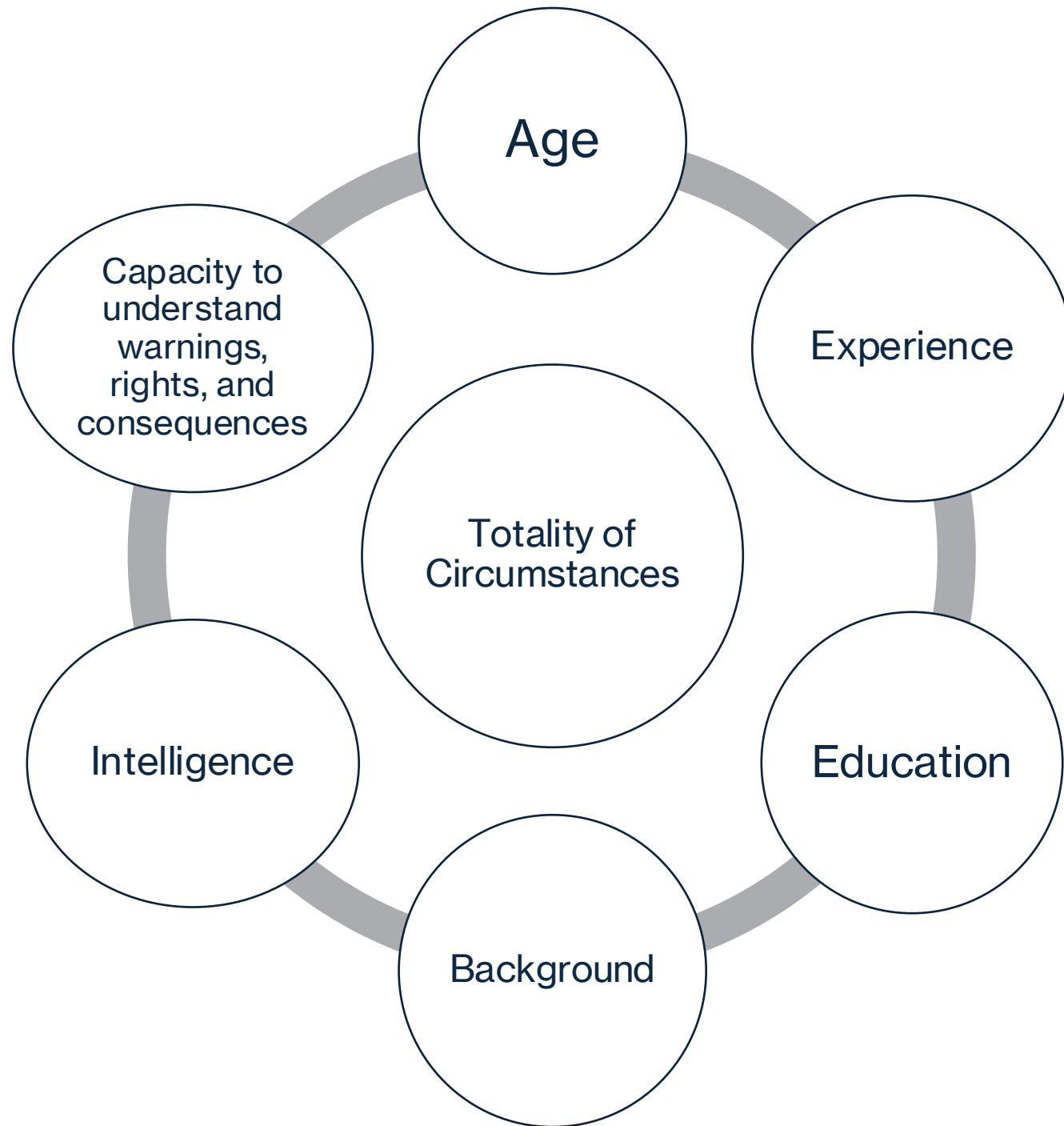


Knowing

Willing

Understanding

G.S. 7B-2101(d)



A photograph of a classical building's exterior, featuring large, fluted marble columns and a wide set of marble steps. The image is partially obscured by a white diagonal shape that serves as a background for the text.

Expert testimony not required to
establish that juvenile
understood their rights

Question of law to be decided by
trial court based on evidence
provided

State v. Benitez (*Benitez II*), 283 N.C.App. 40 (2022)

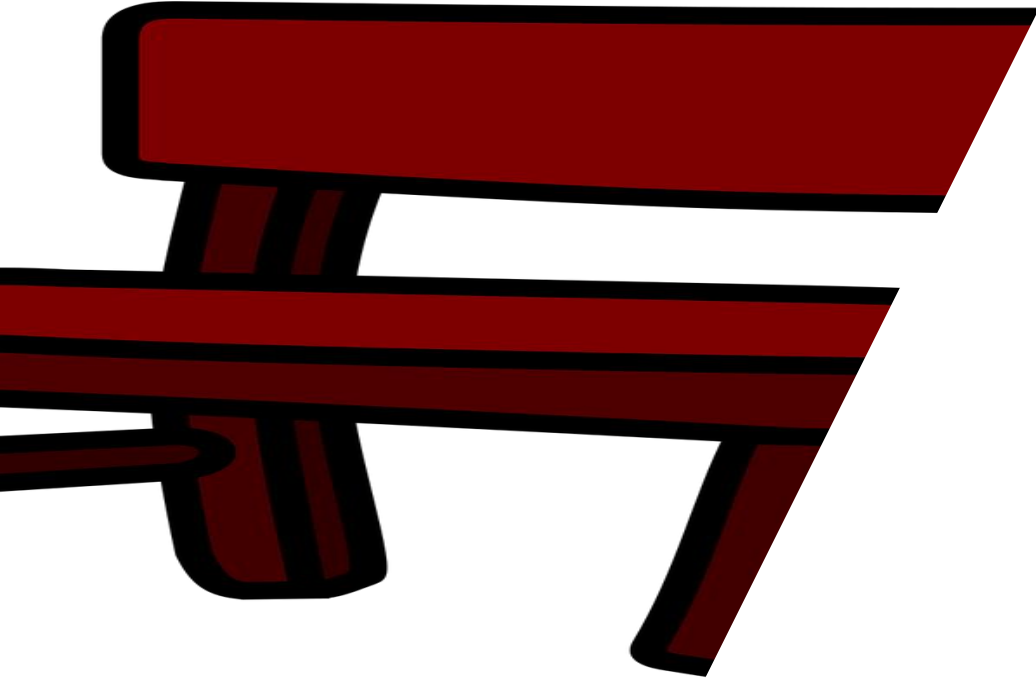
Express written waiver

Strong proof of valid waiver

Not dispositive:

- Not fully informed of rights
- Wrongly informed of rights (i.e. waiver stating can have a parent, guardian, custodian, or any other person present - In re M.L.T.H., 200 N.C. App. 476 (2009).)

Valid waiver



State v. Miller, 344 N.C. 658 (1996)

- 17-year-old
- Signed adult waiver form with handwritten question about parental presence
- Invoked right to presence and stated she should step out during interrogation
- Mom sat on bench outside room and door was left open



Valid waiver

Saldierna II, 371 N.C. 407 (2018)

- 16-year-old
- Provided juvenile rights waiver forms in English and Spanish
- Verbally advised of rights in English
- Signed English waiver form
- Transcript indicated that juvenile responded that he understood each right all but two times; remaining two responses were not audible

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