

Pre-Adjudication Issues

What's Happened Before Court?

Initial Nonsecure Custody

?? G.S. 7B-501(b) (temporary custody, 12 hours; 24 hours)

What Statutes?

- -503 (Criteria)
- -504 (Order)
- -505 (Place)
- -502 (Authority)
- -508 (Telephone)

Other Statutes?

- -403 (verified petition)
- -404 (clerks office closed)

You didn't need to call me, the magistrate can sign these orders.

- A. True
- B. False
- C. It depends

My house would be dirty too without running water. You said the water is back on now, right? Can't you get someone in there to help clean up the place? This doesn't seem like enough. Call me back if you get more information.

Rate this response as:

- A. Good
- B. Sufficient
- C. Poor

• What is the basis for nonsecure you are relying on? I'm looking at a blank nonsecure custody order.

• Children are at substantial risk of injury. I forgot to mention the father sometimes drinks heavily, and there's been one incident of DV in the past. The father was not very cooperative, and the social work doesn't want to take any chances over the weekend.

Rate this question and answer as

A. Good
B. Sufficient
C. Poor

Based on that answer, you would...

A. Order the nonsecure
B. Deny the nonsecure

- Do you have petition?
- Not yet, but if you approve the nonsecure, I'll draft one and go to the magistrate's office.
- Isn't there some relative that can keep these kids for the weekend? Call me back after you file the petition. Find out first if there is somewhere else these kids can stay for the weekend.

The exchange was...

- A. Good
- B. Sufficient
- C. Poor

Best

- Do you have petition?
- Yes Judge, I'm at the magistrate's office now.
- Read the petition to me.

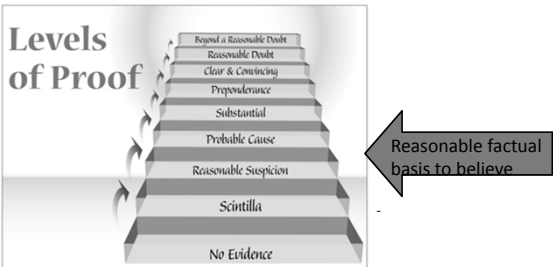
Based upon the petition, you would

- A. Grant the nonsecure custody order
- B. Deny the nonsecure custody order

Lets go to the Form

The image shows a legal form titled "ORDER FOR NONSECURE CUSTODY" from the County of Santa Clara. The form includes fields for the petitioner's name, address, and phone number, as well as a section for the respondent's name and address. It also contains a section for the court's findings and a section for the court's order. The form is partially obscured by black bars on the left and right sides.

503 Factors
and allegations in petition true



AND

- No other reasonable means to protect juvenile
 - first consider release of juvenile to parent, relative, guardian, custodian, or other responsible adult;

Why? What's the practical affect?

<https://www.youtube.com/watch?v=dn3lWob9u7I>

Seconds 7 - 42

What's Next?

- Continued Nonsecure Custody Hearings
 - w/in 7 calendar days
- May continue up to 10 business days, with consent of
 - parent, guardian, custodian, or caretaker; and
 - guardian ad litem if child has one
- Cannot be waived

503 Factors & Child's Placement in Custody is Necessary



Clear and Convincing

- Is the court required to follow the Rules of Evidence?

NO

But order must include findings of fact, which shall include the evidence relied upon

Subsequent Nonsecure Custody Hearings

7 business days and intervals of no more than 30 days

May be waived with consent of

- parent, guardian, custodian, or caretaker; and
- guardian ad litem if child has one

Court must inquire at each hearing:


- a. efforts to identify / locate/ serve missing parent / establish paternity
 - findings required
 - may provide for specific efforts
- b. whether relative willing / able to provide care
 - if so, must place with relative unless contrary to child's best interest
 - out-of-state placement must be "in accordance with" ICPC

Nonrelative Kin
- c. whether other children are in the home
 - if so, inquire about specific findings of assessment and any actions taken for protection

Parker: Section 2

Pre-adjudication Hearings
7B-800.1

Subject Matter Jurisdiction



The image shows a map of the United States with the acronym 'UCCJEA' centered over it. The map is a simple outline of the country with state boundaries indicated by thin lines.

Venue



- Juvenile resides or is present
- Can be waived
- Change of venue pre-adjudication, by itself, does not change who the parties are or who has non-secure custody

Service and Process

- Summons = AOC-J-142 (rev. 10/13)
- Rule 4 of Rules of Civil Procedure
- Service on one parent is sufficient for purposes of subject matter jurisdiction
In re Poole, 357 N.C. 151 (2003), reversing for reasons stated is dissenting opinion in 151 N.C. App. 472 (2002).

Parties

- GAL Child
 - Abuse/Neglect v. Dependency
- Provisional counsel
- GAL for parent
- Paternity
- Missing parent

Strategies

- Amend Petition
- Continuances
- Discovery
- Stipulations

Parker: Section 3
