



**Adjudication**

Juvenile Delinquency: A Course for District Court Judges  
November 14, 2023

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Legal Framework

Preliminary Motions (petitions, continuances, suppression)

Adjudication Hearings and Orders

Contempt by a Juvenile

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**Adjudication**      **Legal Framework**

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### Adjudication – G.S. 7B-2405

Same as guilt phase in criminal trial

To determine if juvenile is delinquent

But, an adjudication that a juvenile is delinquent . . . *shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.* G.S. 7B-2412

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### The Constitutional Framework



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What constitutional rights do not apply in a delinquency case?

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# Adjudication – Juvenile Rights

G.S. 7B-2405

Written notice of facts alleged in petition	Counsel	Confront and cross-examine witnesses
Privilege against self-incrimination	Discovery	All adult offender rights EXCEPT bail, self-representation, and jury trial

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- Legal Framework
- Preliminary Motions (petitions, continuances, suppression)
- Adjudication Hearings and Orders
- Contempt by a Juvenile

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## Issue Spotting

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What kinds of issues did you spot?

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### Preliminary Motions: Petition

#### To Amend Petition

#### (7B-2400)

- Allowed, if doesn't change "nature of offense"
- Juvenile must be given "reasonable opportunity" to prepare defense.

In re Davis, 114 N.C. App. 253 (changed offense from "burning a public bldg" to "burning personal prop.")

In re A.W., 189 N.C. App. 787 (changed offense from "injury to real property" to "injury to personal prop.")

Invalid Amendments

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### Valid Amendments

- Victim's name (adding "inc." or "corporation" in larceny petition, victim's last name, correcting spelling)
- Statutory citations
- Dates (only if time is not material)
- Missing elements (ownership and value of property in a larceny petition)

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Does a petition for possession with intent to sell or distribute need to be amended to support adjudication for simple possession?

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### Preliminary Motions: Lesser-Included Offenses



No amendment needed if petition contains all essential elements



Original petition provides notice



Not a "different" offense

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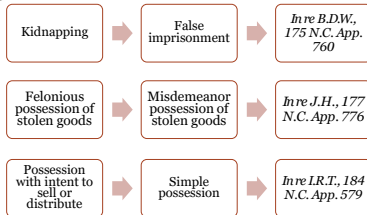
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### Preliminary Motions: Lesser-Included Offenses



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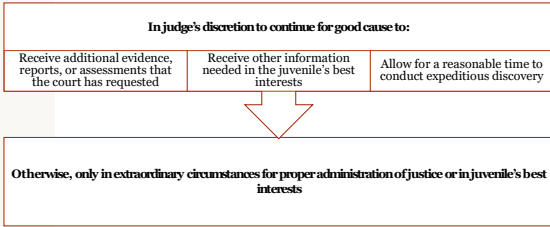
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## Preliminary Motions: Continuance




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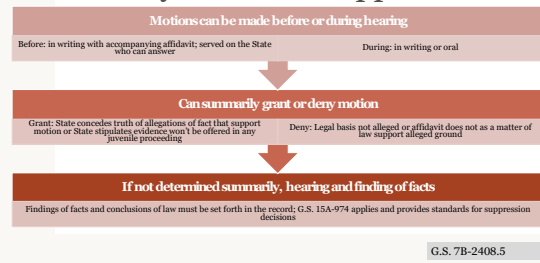
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## Preliminary Motions: Suppression




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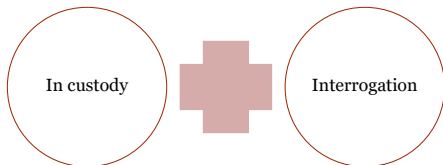
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## Interrogation rights




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## Admissibility of Custodial Statements

7B-2101(a) interrogation rights - 17 and under (State v. Fincher, 309 N.C. 1 (1983))

Miranda plus right to have parent, guardian, or custodian (or, as of 12/1/23, caretaker if 16+) present

PGCC or attorney can be waived by 16+

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## The reasonable child standard and the custody analysis

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

“child’s age properly informs the *Miranda* custody analysis.”

“so long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test.”

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What is so different about young people?



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**In the Matter of D.A.H.,  
2021-NCCOA-135 (2021)**

Did the questioning of the  
juvenile at school  
constitute a custodial  
interrogation?

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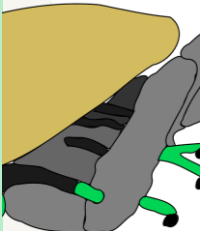
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**The Circumstances**

- 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
- Guardian arrives
- Principal tells Deacon to tell guardian and Deacon repeats confession
- Motion to suppress confession filed

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“As the United States Supreme Court recognized in *J.D.B.*, 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. *J.D.B.*, 564 U.S. at 275. 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)

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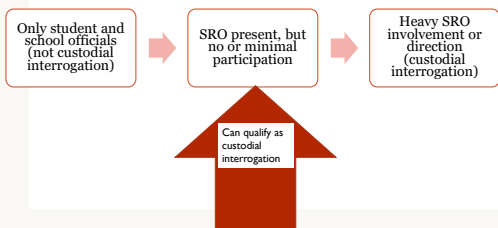
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### SRO Involvement




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### SRO Involvement Not By Itself Dispositive

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### 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.

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Factors Most Relevant in Determining Interrogation in Context of Schoolhouse Interview

- (1) the nature of the questions asked (interrogative or mandatory);
- (2) the willingness of the juvenile's responses;
- (3) the extent of the SRO's involvement;

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Would a Reasonable 13-Year-Old Have Felt Free to Leave?



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Was the questioning of a nature that the two authority figures should have known was likely to elicit an incriminating response?



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Deacon's confession was the product of a custodial interrogation

Court erred in denying the motion to suppress

See "*Juvenile Interrogation*" Juvenile Law Bulletin for much more on custodial interrogation

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G.S. 7B-2101

(b) When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney.

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G.S. 7B-2101

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

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### Circumstances of the waiver

- Audio recording of defendant's interview with Detective Kelly "demonstrates that defendant had the ability to understand Detective Kelly as she read him his juvenile rights
- Defendant placed initials on all parts of waiver form (was given English and Spanish versions)
- Detective Kelly's suppression hearing testimony sufficed to support the trial court's findings to the effect that defendant understood Detective Kelly as she read his juvenile rights to him.

- Defendant's youth
- Request to call his mother
- The number of officers present during the interrogation
- Misleading statements made to defendant by investigating officers
- Responses to Detective Kelly's questions regarding the extent to which he understood his rights were unclear
- Trial court failed to make any findings of fact concerning defendant's "experience, education, background, ... intelligence," and "capacity to understand the warnings given [to] him"

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Was this a valid waiver?

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**State v. saldierna, 371 N.C. 407 (2018)**

<b>Waiver was done knowingly, willingly, and understandingly</b>	Express written waiver
Advised of his rights in both written English and Spanish and in spoken English	In all but two instances, defendant verbally affirmed that he understood
Detective testimony that defendant understood	No allegations of coercive police conduct or the use of improper interrogation techniques

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### Search and Seizure at School

New Jersey v. T.L.O., 469 U.S. 325 (1985)

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graph TD
    A[Reasonableness standard] --> B[Justified at inception]
    A --> C[Reasonably related in scope to initial justification]
  
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Was the initial search in D.L.D. reasonable?

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Was the second search in D.L.D. reasonable?

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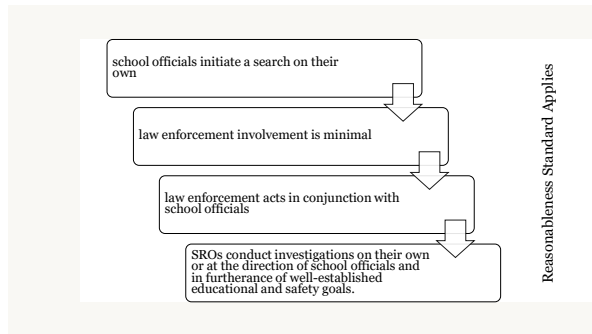
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### Preliminary Motion Practice

How will you rule?

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Legal Framework

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### Timing



“within a reasonable time”

G.S. 7B-2403

Seven months between petition filing and adjudication hearing not unreasonable (especially in light of the fact that both continuances of the matter were admittedly for good cause)

*In the Matter of J.C.*, 219 N.C.App. 647 (2012)

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### Procedure

Rules of evidence apply?  Yes

Burden of Proof?  Beyond a Reasonable Doubt

Combine with PC or transfer hearing?  No – must be separate

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## Adjudication – Self-Incrimination

"[A]t the very least, some colloquy [is required] between the trial court and juvenile to ensure the juvenile understands his right against self-incrimination before choosing to testify at his adjudication hearing." *In re J.R.V.* 212 N.C.App. 205 (2011)

"Thus, failure to follow the statutory mandate when conducting an adjudication hearing constitutes reversible error unless proven to be harmless beyond a reasonable doubt." *In re J.B.* 820 S.E.2d 369 (2018)

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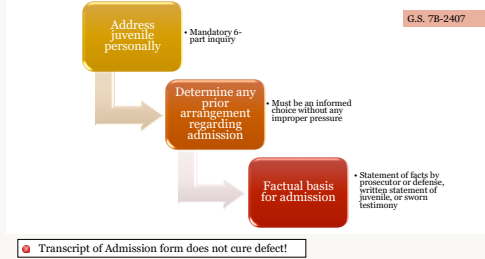
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## Juvenile Admissions



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The court may accept an admission from a juvenile only after first addressing the juvenile personally and:

1. Informing the juvenile that the juvenile has a right to remain silent and that any statement the juvenile makes may be used against the juvenile;
2. Determining that the juvenile understands the nature of the charge;
3. Informing the juvenile that the juvenile has a right to deny the allegations;
4. Informing the juvenile that by the juvenile's admissions the juvenile waives the juvenile's right to be confronted by the witnesses against the juvenile;
5. Determining that the juvenile is satisfied with the juvenile's representation; and
6. Informing the juvenile of the most restrictive disposition on the charge

G.S. 7B-2407

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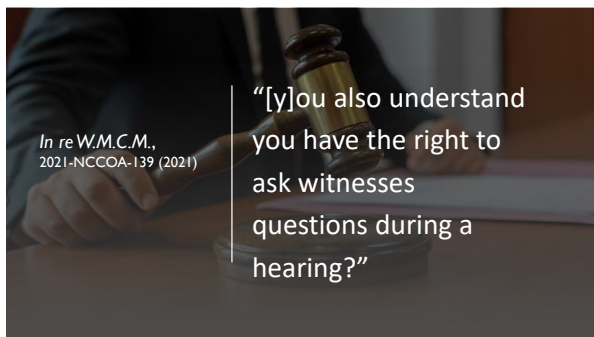
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AOC-J-410

The above-named juvenile, having offered an  admission  admission pursuant to Alford decision, and being first duly sworn, gives the following answers:

	Answers
1. Are you able to hear and understand me?	(1) _____
2. Do you understand that in a hearing you have the right to not say anything about your charge(s) and that any statement you make may be used as evidence against you?	(2) _____
3. What is the last grade you completed in school?	(3) _____
4. (a) Are you now using or consuming alcohol, drugs, medications, or any other substances?	(4a) _____
(b) When was the last time you used any alcohol, drugs or medicine?	(4b) _____
(c) Do you believe your mind is clear and do you understand what you are doing in this hearing?	(4c) _____
5. (a) Have the charges been explained to you by your lawyer?	(5a) _____
(b) Do you understand what the charge(s) are?	(5b) _____
(c) Do you understand every part of each charge?	(5c) _____
6. (a) Have you and your lawyer discussed the possible reasons why you might not be responsible for the charges?	(6a) _____
(b) Are you satisfied with your lawyer's help in your case?	(6b) _____
7. (a) Do you understand that you have the right to deny the charges?	(7a) _____
(b) Do you understand that you have the right to have your case heard by a judge in Juvenile Court?	(7b) _____
(c) Do you understand that if your case is heard by a judge, you have the right to ask witness questions during the hearing?	(7c) _____
(d) Do you understand that if you sign this admission, you give up these rights and other important constitutional rights related to a hearing in this court?	(7d) _____
8. Do you understand that you are admitting the following charge(s)?	(8) _____

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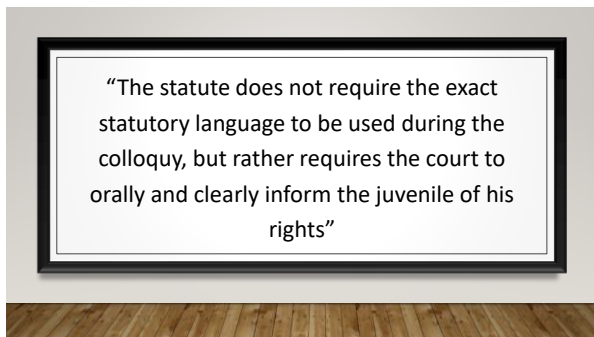
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### Invalid Admissions

*In re J.A.G.*, 206 N.C. App. 318 (2010) (court omitted three of the six mandatory inquiries)

*In re A.W.*, 182 N.C. App. 159 (2007) (court omitted two of the six mandatory inquiries)

*In re N.L.G.*, 2021-NCCOA-247 (2021) (court did not make any of the required inquiries)

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### Insufficient Factual Basis

*In re N.J.*, 752 S.E.2d 255 (2013) (unpublished)

- vacated admission to PWISD b/c no factual basis for element of intent to sell or deliver

*In re D.C.*, 191 N.C. App. 246 (2008)

- vacated admission to felony larceny b/c no factual basis for value of stolen truck

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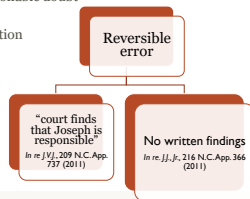
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### Adjudication Orders

Required written findings:

- Allegations proven beyond a reasonable doubt
- Offense date
- Misdemeanor or felony classification
- Date of adjudication



G.S. 7B-2411

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## Adjudication Orders

Delineation of evidence supporting each element of offense NOT required (*In re K.M.M.*, 242 N.C.App. 25 (2015))

“[T]hat on or about the date of 10–16–2013, the juvenile did unlawfully and willfully steal, take, and carry away a White Apple [iP]hone with a pink and gray otter box case, the personal property of [Ms.] Nguyen having a value of \$300.00”

Findings may be included in an attachment

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Legal Framework

Preliminary Motions (petitions, continuances, suppression)

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Article 3 of Chapter  
5A of the General  
Statutes  
Contempt by Juveniles

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Have you ever held a juvenile in contempt?

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### Direct Contempt by a Juvenile

All of the following must be true:

- Act was committed w/n sight or hearing of a judge;
- In or near courtroom while court was in session; and
- Was likely to interrupt or interfere with court session

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### Direct Contempt by a Juvenile

- Must provide summary notice & opportunity to respond
- Appoint attorney (if juvenile doesn't have one)
- Find facts to support summary response
  - must be established beyond a reasonable doubt

G.S. 5A-31(b), 5A-32

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## Remedies

up to five days in detention

up to 30 hours of supervised community service as arranged by a juvenile court counselor

undergo any evaluation necessary for the court to determine the needs of the juvenile.

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## Indirect Contempt by Juvenile

- Indirect contempt is a delinquent act
  - See G.S. 5A-31, -33 and G.S. 7B-1501(7)
  - *i.e.*, requires complaint, intake, and petition
- *E.g.*, willful disobedience of a court order
- May not be punished summarily

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