

Juvenile Delinquency Case Update



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Extension of YDC Commitment

In re J.L.H., 750 S.E.2d 197 (NC Ct App, 2013)

- 30-day extension notice included:
 - Oral notice to father by telephone
 - In person meeting w/ juvenile & treatment team
 - Provision of meeting notes to juvenile
 - Formal written notice mailed to father 1-week later
- Trial court found notice was sufficient

Extension of YDC Commitment



Requires 30-day prior **written** notice to juvenile & juvenile's parents.

G.S. 7B-2515(a)

Extension of YDC Commitment

COA holding (*J.L.H.*):

1. Oral notice insufficient under 7B-2515(a)
2. Statute is **mandatory** not directory
 - Protects juvenile's due process rights



Compare: *In re D.S.*, 364 N.C. 184 (2010)

- 7B-1703 timeline for filing juvenile petition directory, not mandatory
- Violation requires showing of prejudice

Bifurcated Hearings?

In re G.C., 750 S.E.2d 548 (NC Ct App, 2013)

- 1st degree sex offense & indecent liberties (x2)
- One hearing for Transfer, Adjudication, & Disposition
- J committed to YDC
- Ct. denied release pending appeal w/o written findings



Bifurcated Hearings?

COA holding (G.C.):

- No Error
 - Totally separate & distinct hearings not required . . .
 - if juvenile's statutory & constitutional rights are protected
 - See also *In re J.J.*, 717 S.E.2d 59 (NC Ct App, 2011)

Not A Best Practice!

Release Pending Appeal

[illegible]

In re G.C., 750 S.E.2d 548 (NC Ct App, 2013)

- Reversed and Remanded
- No written statement of “compelling reasons” for denial of release per G.S. 7B-2605

[illegible]

Modification of Disposition Order

In re A.F., 752 S.E.2d 245 (NC Ct App, 2013)

6/1/2012: J failed to appear for prob. viol. hearing

6/13/2012: Initial probation period set to expire

8/9/2012: J committed new offense

10/8/2012: J admitted to prob. viol. & new petition

- Trial court assigned 2 pts for probation status
- Ct denied motion to modify improper disposition

Modification of Disposition Order

COA holding (A.F.):



1. Cannot implicitly & retroactively extend probation.
2. Trial court erred by failing to modify disposition order to correct error of law. (see G.S. 7B-2600)

“Prior Adjudication” Definition

A **prior adjudication** under 7B-2507(a) includes any adjudication entered prior to disposition hearing & entry of disposition.

In re P.Q.M., 754 S.E.2d 431 (NC Ct App, 2014)

- Even if . . .

- No disposition has been entered
- Adjudication occurred after the adjudication of the offense for which disposition is being entered

“Prior Adjudication” Definition

Adjudications

1/5/2012: communicating threats

11/29/2012: RWDW ← Disposition hearing on 3/4/13

12/3/2012: larceny of firearm

❖ Larceny of firearm is a prior adjudication

In re P.Q.M., 754 S.E.2d 431 (NC Ct App, 2014)

Obstruction of Justice

- Intimidating a witness, G.S. 14-226(a)
 - Substantial evidence of each element
 - By threats, menaces or in any other manner intimidates
 - Person summonsed or acting as a witness
 - Defendant = perpetrator

Neely

- Subpoenaed in 1st trial
- Testified at 1st trial
- Appeal, trial de novo in superior court
- Defendant threatened witness, language indicated physical violence

Shannon

- Wrote letter
- Never testified in case
- No subpoena
- Opened herself up to be called to testify
- Informed she may be called as witness
- Testified in 3-4 cases in last 4 years

ICWA

- *E.G.M.*

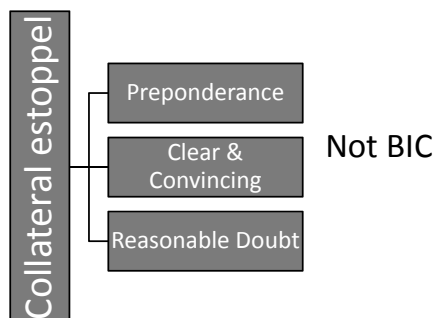


VS



- Subject Matter Jurisdiction
- Expert Testimony
- Active Efforts and Cease

In re K.A.



Intervenor/Standing to appeal

- In re: *T.H.*



- G.S. 7B-401.1(h)
– G.S. 7B-1103(b)

Grounds for objection



J.P.
T.H.

Visitation

- Minimum Outline...
- G.S. 7B-905.1



Findings

- *C.M.*

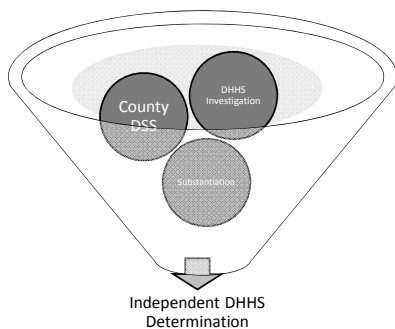


UCCJEA

- *M.M.*



Nancy's Korner Care Center v. NC DHHS



TPR: Subject Matter Jurisdiction

- How do you count the time?
– *A.D.N.*



T.P.R. - Grounds

NOTICE

- *T.J.F.*

Grounds: Neglect

Facts: Father has not seen or tried to see the child for six months before I filed this petition. Father has not paid any child support for the child.

TPR: Best Interests

- *D.H.*
 - G.S. 7B-1110(a): 6 factors
 - (1): age
 - (2): likelihood of adoption
 - (3): will TPR aid in accomplishing PP
 - (4): bond between juvenile and parent
 - (5): quality of relationship between juvenile and proposed placement
 - (6): any relevant consideration
 - FINDINGS
 - Abuse of Discretion

Adoption of Baby Boy G.S. 48-3-702(a)

OATH
Before me, _____, a Notary Public
in and for _____ County,
State of _____, personally appeared
_____ and he/she being first duly
sworn (or affirmed) by me upon his/her oath,
says that the facts alleged in the
foregoing instrument are true.

(SEAL)

Signature of Notary Public

Parties agree that _____
and all its terms by signing _____
Sign here: _____

In re L.M.T.

- T.P.R and Cease Reunification



7B-507(b)(1): substance vs. language



In re S.D.W.

Was Notice Beyond His Control?

