

In re A.K.O., 375 N.C. 698 (2020)

This is a TPR appeal that challenged the children's best interests determination. Part of the opinion discusses the weight the trial court should have given to the preferences of the children and how the analysis differs based on the age of each juvenile.

There are two minor siblings – a 17-year-old brother and 9-year-old sister – both of whom had been adjudicated neglected and dependent two years before the TPR was initiated. The permanent plans were adoption and guardianship. The 17 year old, who was “just days away from his 16th birthday” when the TPR order was entered, expressed his preference that his parents' rights not be terminated. He explained that he preferred guardianship over adoption so that he could maintain a relationship and placement with his sister. The placement provider was willing to adopt his sister and be his guardian. The 17 year old also stated that he wanted to keep his family name, keep his parents' names on his legal documents, and maintain a relationship with his parents. He noted he would be 18 in 26 months and struggled to understand the benefit of adoption over guardianship.

The order was vacated and remanded because of a misapprehension of law re: the need to TPR for guardianship. The Supreme Court stated, “[g]iven Adam's well-reasoned objection to adoption, the trial court's unchallenged finding that Adam's interest in maintaining a relationship with respondents is reciprocated by respondents, as well as the fact that Adam is approaching the age of majority, there are few benefits to terminating respondents' parental rights. **As a juvenile ages, the trial court should afford more weight to his wishes.**” On remand, the court should give proper weight to his age. (p. 706)

Regarding the 9-year-old sister, the TPR was affirmed. The Supreme Court stated, “[h]ere Alyson was only nine years old at the time of the hearing, significantly younger than Adam, and thus the same considerations are not applicable to Alyson.” (p.707)

In re J.C.-B, 276 N.C. App. 180 (2021)

“The trial court is not required to abide by a child's express wishes, but the child's wishes are part of the totality of circumstances the trial court must consider, and consider those wishes more particularly as a child approaches majority.” (p. 192)

This case involves a permanency planning hearing where the wishes of the 16-year-old juvenile about wanting visitation with his mother was not shared by his GAL and he did not appear or testify. “ ‘Jacob is now seventeen years old, eligible for emancipation and his opinion carries great weight.’ See [N.C. Gen. Stat. § 7B-3500](#).”