Subject Matter Jurisdiction
Recent Juvenile Cases

Initiation of Action

Where the petition was filed after issuance of the nonsecure custody order and summons, the trial court had subject matter jurisdiction after the petition had been signed and verified and filed.
- In re L.B., 181 N.C. App. 174, 639 S.E.2d 23 (1/2/07).

A claim for termination of parental rights may not be asserted as a counterclaim in a civil district court action for child custody or visitation.
- In re S.D.W., N.C. App., 653 S.E.2d 429 (12/4/07).

Pleadings

Failure to allege the child's address in the petition or to provide the affidavit required by G.S. 50A-209 did not deprive the trial court of subject matter jurisdiction.
- In re A.R.G., 361 N.C. 392, 646 S.E.2d 349 (6/28/07).

Failure to attach an affidavit of status of minor child did not deprive the court of jurisdiction.
- In re D.S.A., 181 N.C. App. 715, 641 S.E.2d 18 (2/20/07).

Where contents of petition were substantially compliant with the statute and respondent had access to all of the required information, the trial court did not lack subject matter jurisdiction.
- T.M.H., N.C. App., 652 S.E.2d 1 (10/16/07), *review denied*, 362 N.C. 87, 657 S.E.2d 31 (12/6/07).

Failure to verify a motion or petition to terminate parental rights deprived the trial court of subject matter jurisdiction.
- In re T.R.P., 360 N.C. 588, 636 S.E.2d787 (2006).
- In re C.M.H., N.C. App., 653 S.E.2d 929 (12/18/07).

Standing

Trial court's jurisdiction was not affected by fact that (i) petition did not state specifically that social worker was director's authorized representative or (ii) social worker signed only the verification, not the signature line for the petitioner.
- In re D.D.F., N.C. App., 654 S.E.2d 1 (12/4/07).

Verification of the petition was sufficient when it was signed by an identified employee of DSS.
- In re Dj.L., N.C. App., 646 S.E.2d 134 (6/19/07).

Verification of a neglect petition was not sufficient when a DSS employ signed the director's name "per [the employee's initials or name]".
- In re A.J.H-R., N.C. App., 645 S.E.2d 791 (6/19/07).
- In re S.E.P., N.C. App., 646 S.E.2d 617 (7/3/07).

Custody pursuant to a valid nonsecure custody order is sufficient to confer on DSS standing to file a petition to terminate parental rights.
- In re T.M., 182 N.C. App. 566, 643 S.E.2d 471 (4/17/07), *aff'd per curiam*, 361 N.C. 683, 651 S.E.2d 884 (11/9/07).
- In re D.J.G., 183 N.C. App. 137, 643 S.E.2d 672 (5/1/07).

Trial court lacked subject matter jurisdiction because when petition was filed (a) the child was not in DSS custody and was not residing in or found in the district; and (b) DSS, not having custody of the child, did not have standing to file the petition.
- In re D.D.J., 177 N.C. App. 441, 628 S.E.2d 808 (5/2/06).

Failure to attach to petition a copy of the order giving petitioners custody did not deprive the court of jurisdiction, where respondent showed no prejudice and clearly was aware of the child's custody with petitioners.
- In re H.L.A.D., N.C. App., 646 S.E.2d 425 (7/3/07); *aff'd per curiam*, 362 N.C. 170, 655 S.E.2d 712 (1/25/08).

See also:
- In re W.L.M., 181 N.C. App. 518, 640 S.E.2d 439 (2/6/07).

Compare:
- In re T.B., 177 N.C. App. 790, 629 S.E.2d 895 (6/6/06) (DSS's failure to attach to petitions a copy of order awarding legal custody of children to DSS deprived trial court of subject matter jurisdiction).

Summons

In an action to terminate parental rights, failure to issue a summons to the child deprives the trial court of subject matter jurisdiction.
- In re C.T., 182 N.C. App. 472, 643 S.E.2d 23 (4/3/07).
- In re K.A.D., N.C. App., 653 S.E.2d 427 (12/4/07).
- In re I.D.G., N.C. App., 655 S.E.2d 858 (2/5/08).
- In re B.L.H., N.C. App., 657 S.E.2d 736 (3/4/08).
- In re J.T. (I), N.C. App, 657 S.E.2d 692 (3/4/08).
- In re A.F.H-G., N.C. App., 657 S.E.2d 738 (3/4/08).
- In re J.A.P., N.C. App. (4/15/08).

Trial court lacked personal and subject matter jurisdiction when respondent was served with summons that had expired and made no appearance in the proceeding.
- In re A.B.D., 173 N.C. App. 77, 617 S.E.2d 707 (9/6/05).
- Gorsuch v. Dees, 173 N.C. App. 223, 618 S.E.2d 747 (9/6/05).

Issuance of a second or subsequent summons, without an extension or alias and pluries summons, begins a new action as of the date of issuance of the new summons and, if the action was discontinued, reinvokes the court's subject matter jurisdiction.
- In re D.B., N.C. App., 652 S.E.2d 56 (11/6/07).

When a termination proceeding is initiated by motion in the cause, a notice, not a summons, is required.
- In re D.R.S., 181 N.C. App. 136, 638 S.E.2d 626 (1/2/07).

Statutory Requirements

A trial court may not proceed in any termination of parental rights action that was filed on or after October 1, 2005, when an appeal from an underlying abuse, neglect, or dependency case is pending.
- In re P.P., N.C. App., 645 S.E.2d 398 (6/5/07).

Requirement that when a termination petition is filed the child resides in, is found in, or is in the custody of a DSS or child-placing agency in N.C. does not apply when the court already has exclusive continuing jurisdiction under the UCCJEA.
- In re H.L.A.D., N.C. App., 646 S.E.2d 425 (7/3/07); *aff'd per curiam*, 362 N.C. 170, 655 S.E.2d 712 (1/25/08).

UCCJEA

The trial court has discretion, at any point in a custody proceeding, to determine that another state is a more appropriate forum.
- In re M.E., 181 N.C. App. 322, 638 S.E.2d 513 (1/2/07), *review denied*, 361 N.C. 354, 646 S.E.2d 115 (5/3/07).

Exercise of jurisdiction through adjudication and disposition pursuant to temporary emergency jurisdiction provisions of the UCCJEA was proper since only a temporary custody order was entered.
- In re M.B., 179 N.C. App. 572, 635 S.E.2d 8 (9/19/06).

Evidence in the record must support findings that support a conclusion that the trial court has subject matter jurisdiction under the UCCJEA.
- In re T.J.D.W., 182 N.C. App. 394, 642 S.E.2d 471 (4/3/07), *aff'd per curiam*, 362 N.C. 84, 653 S.E.2d 143 (12/7/07).
- In re M.G., N.C. App., 653 S.E.2d 581(12/18/07).