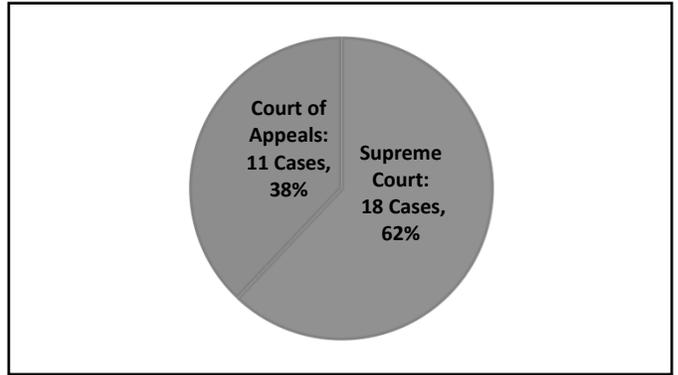
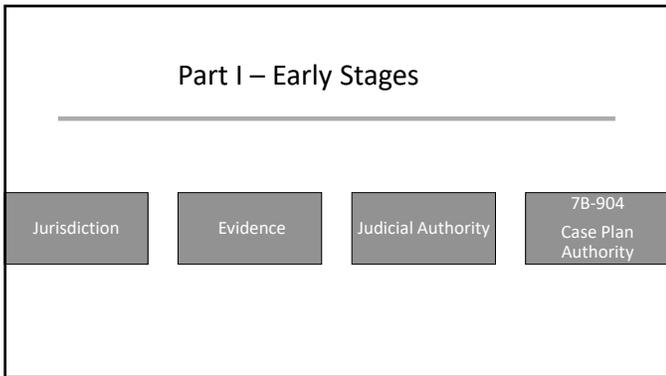


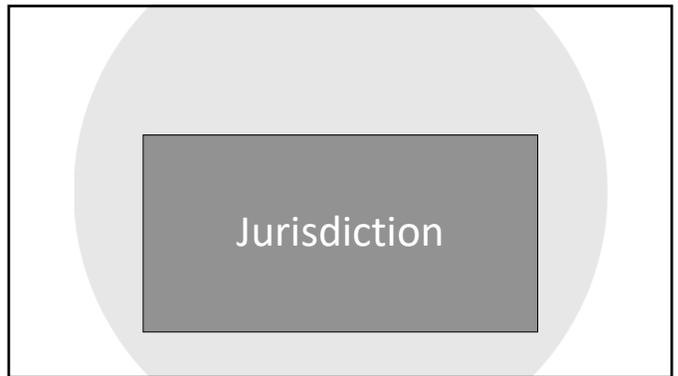
1



2



3



4



5

Identify all the procedures and laws that impact subject matter jurisdiction

- UCCJEA
- ICWA
- Filing a petition
- I have no idea

6

Post Relinquishment Permanency Planning
In re E.B. (p. 13)

- Child born
- Mom relinquish

2016 ————— 2018

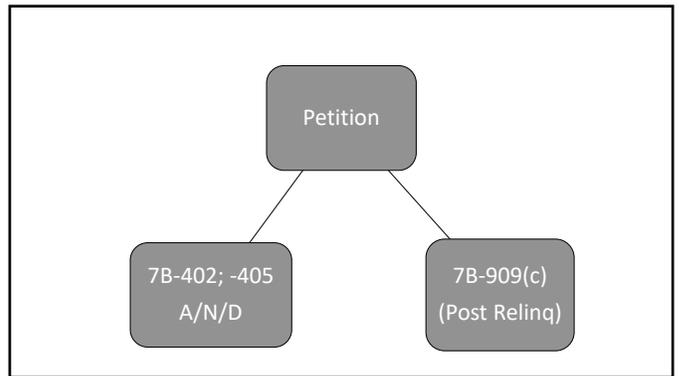
6 Permanency Planning Hearings

May 2016 – Jan 2018

TPR

- Paternity established
- Out of home services
- Child in foster care

7



8



9

Could the TPR Action Go Forward?



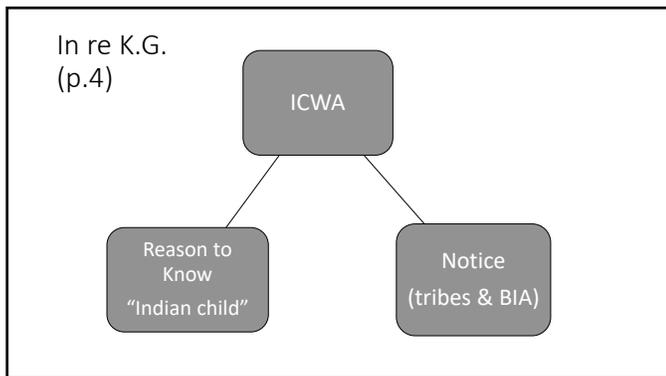
YES



NO

Standing: 7B-1103(a)(4) (Relinquishment)
G.S. 48-3-705 (Vests legal and physical custody)

10



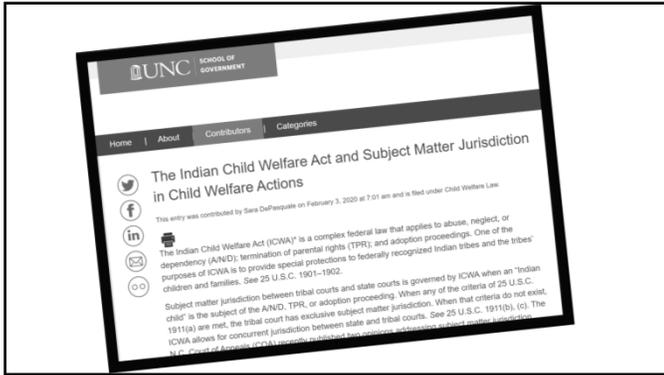
11



To determine if it has subject matter jurisdiction

¹ An "Indian child" is defined as "any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." 23.108(b) (2016) (emphasis added). is solely within the jurisdiction and authority of the Tribe 23.108(b) (2016) (emphasis added).

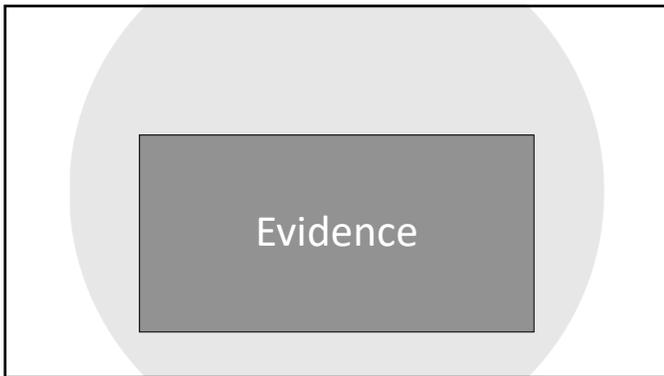
12



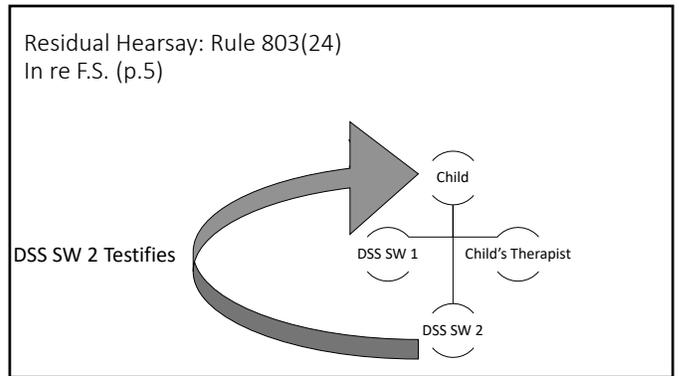
13



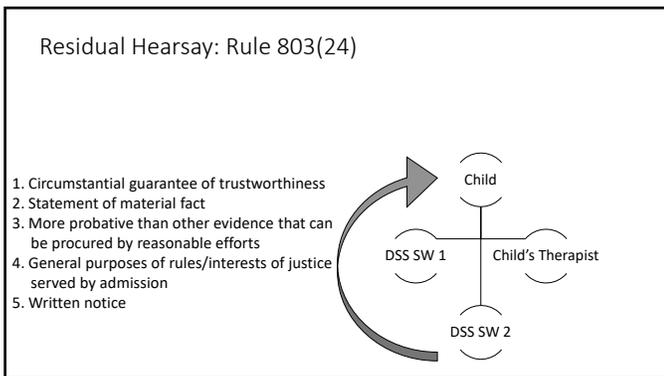
14



15



16



17



18

Assume written notice was given, should this testimony be admitted under Rule 803(24)



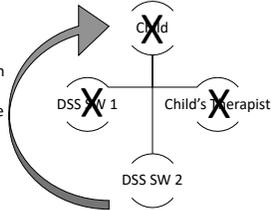
YES



NO

19

1. Circumstantial guarantee of trustworthiness
2. Statement of material fact
3. More probative than other evidence that can be produced by reasonable efforts
4. General purposes of rules/interests of justice served by admission
5. Written notice



20

Post Petition Evidence
In re F.S.

Separation between child and mother before
Petition 2 filed

Adjudication 1

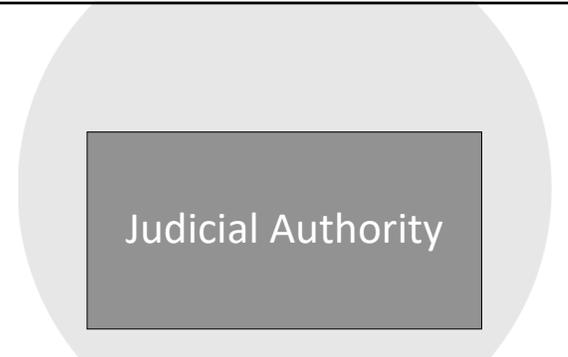
Dependency
Neglect

Petition 2

Adjudication
Hearing 2

Reversed on appeal

21



Judicial Authority

22



Take my
online poll.

23

7B Opinions



24

A judge has authority/discretion to do the following

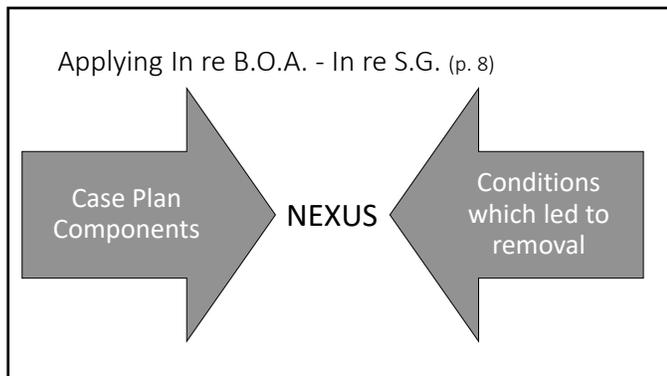


Determine witness credibility (In re S.D.; In re D.W.P.; In re A.R.A.)
Determine reasonable inferences to be drawn from testimony (In re D.W.P.; In re A.R.A.)
Decide what weight to give to the evidence (In re D.W.P.; In re A.R.A.)
Question witnesses (In re N.D.A.)
Determine if a substantial question exists re: a parent's incompetency & need for a hearing (In re Z.V.A.)

25

7B-904
Case Plan Authority

26

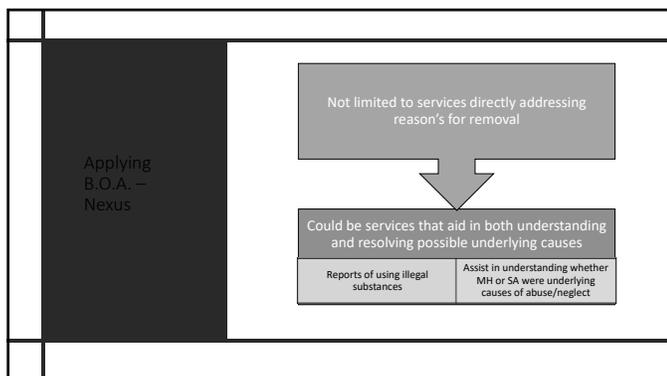


27



In re S.G.

28



29

Nexus - Housing



- May impose any conditions it believes are relevant to address issues that led to child's removal at any time based on new or existing evidence so long as does not abuse its discretion
- Overrule H.H. and W.V.
- DSS report addressed refusal to disclose physical address
- Findings in order

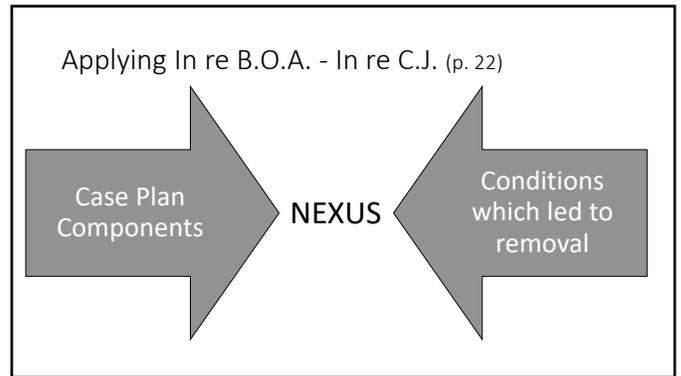
30

Case Plan:

Nexus b/t steps ordered & condition found/alleged to have led or contributed to adjudication

- SA and MH Ax and follow all recs
- Random drug screens
- Parenting classes and demonstrate skills at visits Visits 1x/month
- Obtain and maintain safe and stable housing

31



32

Part II – Moving Toward Permanency and TPR

Waive Reviews TPR Grounds: Limitations TPR Best Interests

33

Waive Reviews

34

G.S. 7B-906.1(n)(1)
In re J.T.S. (p. 9)

- “has resided in the placement for a period of at least one year”

A horizontal timeline with five chevron-shaped boxes pointing right. The boxes contain the following text: 'Birth-6 months with grandparents', 'Resided many years with grandparents', 'Aug. 2017 DSS report when living with parents', 'Oct. 2017 Placement', and 'Aug. 2018 Order'.

35

Take my online poll.

A graphic featuring a circular frame with a checklist and a large checkmark. The text 'Take my online poll.' is overlaid on the graphic.

36

Has the child resided in the placement for at least one year?

Yes
 No

37

“period of at least one year”

- Continuous uninterrupted period
 - Purpose of Code:
 - Best evidence of stability and permanency
 - Commitment of permanent custodian or guardian
 - Opportunity for parent to demonstrate progress at 2 review hearings
- May hold differently from T.P. (2011)

38

TPR Grounds:
Limitations
(Incarceration/DVPO)

39



40



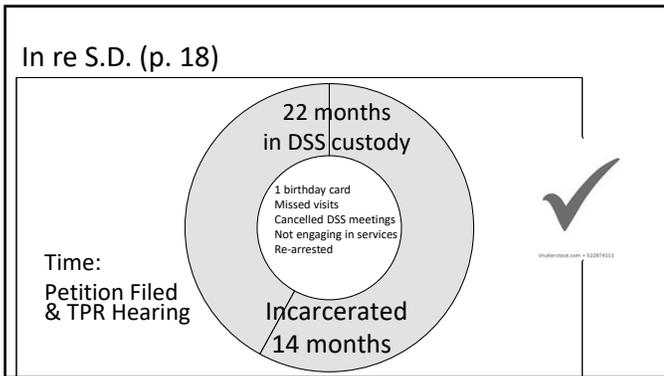
41

Lack of proper care or supervision

In re K.N. (p. 17)

- Currently incarcerated and awaiting trial on a number of criminal charges **X**
- Need
 - Analysis of relevant facts and circumstances
 - Length of incarceration

42



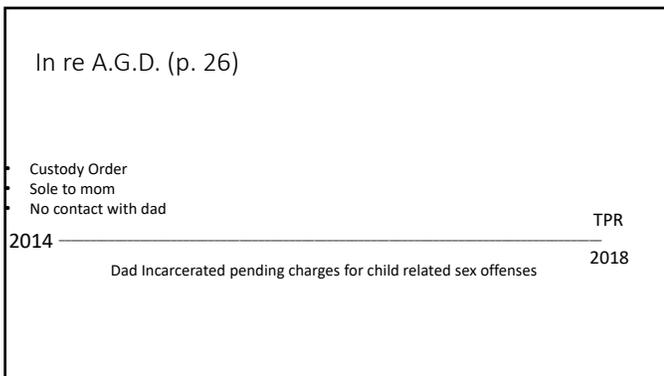
43

Abandonment:
G.S. 7B-1111(a)(7)

6 months preceding petition

- Forego all parental duties and relinquish all parental claims
- Withholds presence, love, care, opportunity to display filial affection, no support/maintenance
- Willfulness = question of fact

44



45



46

Was Dad precluded from having contact such that abandonment was not willful?

YES NO

47

Was Dad precluded from having contact such that abandonment was not willful?

- Limitations with incarceration & Order
- Not precluded from contacting mom or other persons to show indirectly his love, guidance, affection
- State and parent action to protect child does not preclude TPR

NO

48

DOMESTIC VIOLENCE ORDER OF PROTECTION
 CONSENT ORDER G.S. 50B-2 .3 - .31

Case No. _____
 Court General Court of Justice
 District Court Division
 County _____ **NORTH CAROLINA**

PETITIONER/PLAINTIFF IDENTIFIERS
 Date of Birth Of Petitioner _____
 Other Protected Persons/DOB: _____

PETITIONER/PLAINTIFF
 First _____ Middle _____ Last _____
 And/or on behalf of minor family member(s): (List Name And DOB) _____

RESPONDENT/DEFENDANT IDENTIFIERS
 Sex _____ Race _____ DOB _____ HT _____ WT _____

RESPONDENT/DEFENDANT

49

In re K.N.K. (p. 27)

2014 ————— 2015 ————— 2018

DVPO for mom

Custody order; sole to mom; supervised visits to dad TPR Dad Starts Visits

DVPO for mom and child allowed for supervised visits

50

What could he have done to show affection, guidance, love, support?

CHAT BOX!

51

- What could he have done?
- 1 Exercise Visits
 - 2 Provide Support
 - 3 Seek to modify order
 - 4 Attempt to attend appointments, activities

52

TPR

Best Interests

53

Best Interests of the Child

Standard of Review
 In re Z.A.M. (P. 20)

“without regard to competing interests of respondent”
 In re K.N.K., (p. 27)

54

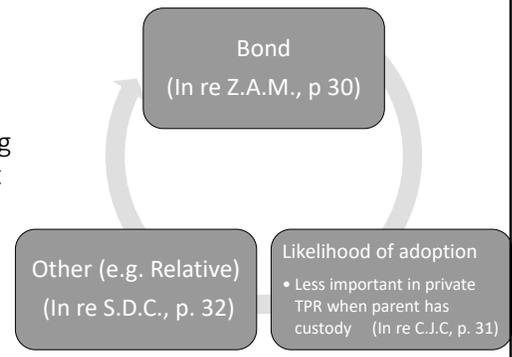
BIC Findings: Relevant Factor (In re C.J.C. (p. 31))

Although the trial court must consider all of the factors in N.C.G.S. § 7B-1110(a), it “is only required to make written findings regarding those factors that are relevant.” *In re A.R.A.*, 373 N.C. at 199, 835 S.E.2d at 424. “[A] factor is relevant if there is conflicting evidence concerning the factor, such that it is placed in issue by virtue of the evidence presented before the [district] court[.]” *Id.* (citation and internal quotation marks omitted) (second and third alteration in original).

Based on competent evidence (In re K.N.K., p. 27))

55

Weighing Relevant Factors



56



57