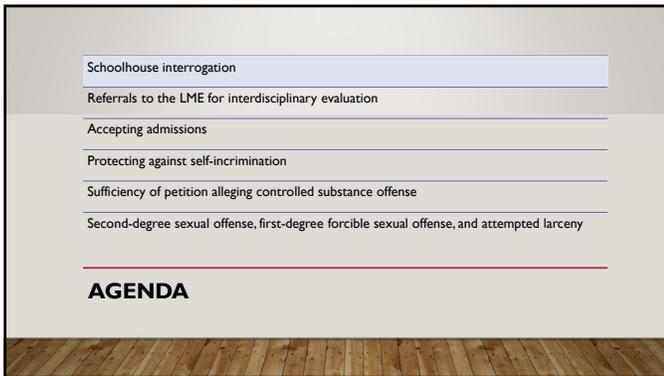
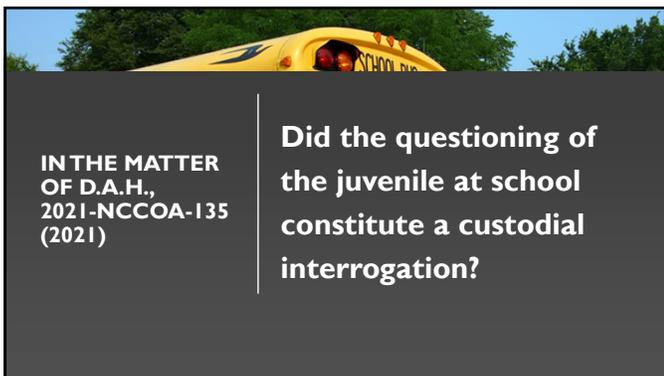


4



5



6

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

7

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Was Deacon subjected to a custodial interrogation?

Yes

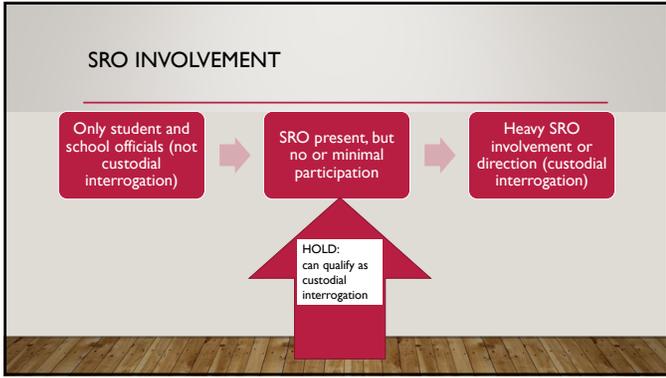
No

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8

"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)

9



10



11

- 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.

12

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;

13

WOULD A REASONABLE 13-YEAR-OLD HAVE FELT FREE TO LEAVE?

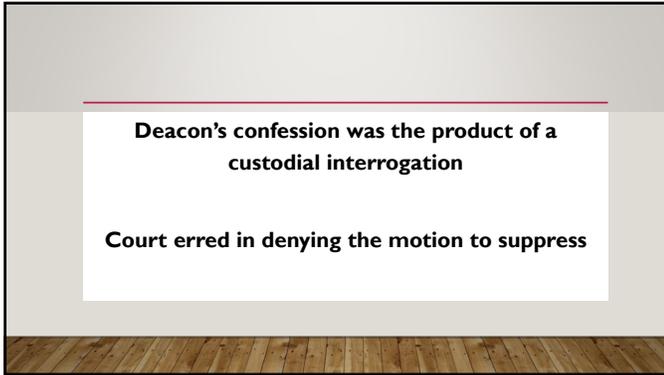


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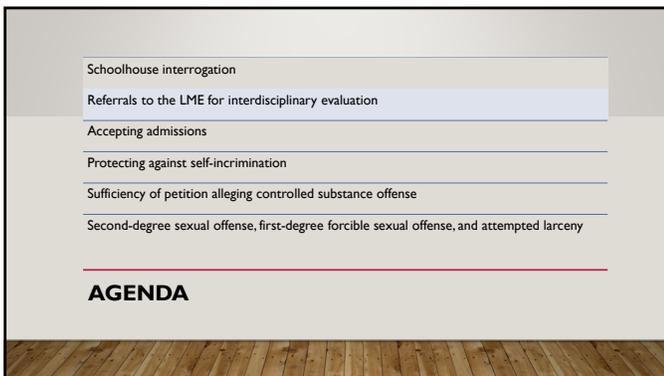
WAS THE QUESTIONING OF A NATURE THAT THE TWO AUTHORITY FIGURES SHOULD HAVE KNOWN WAS LIKELY TO ELICIT AN INCRIMINATING RESPONSE?



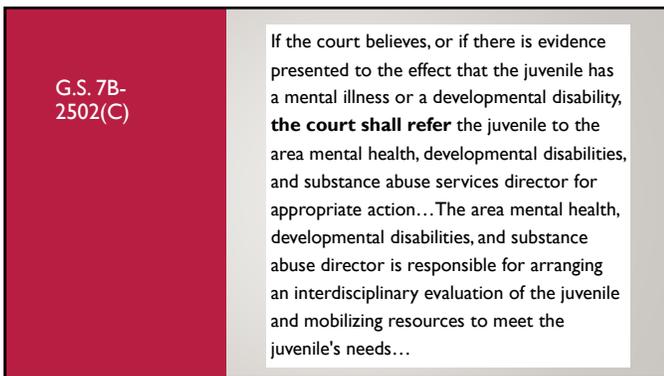
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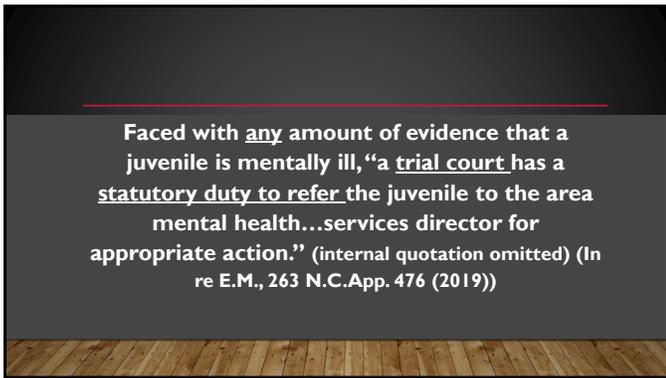
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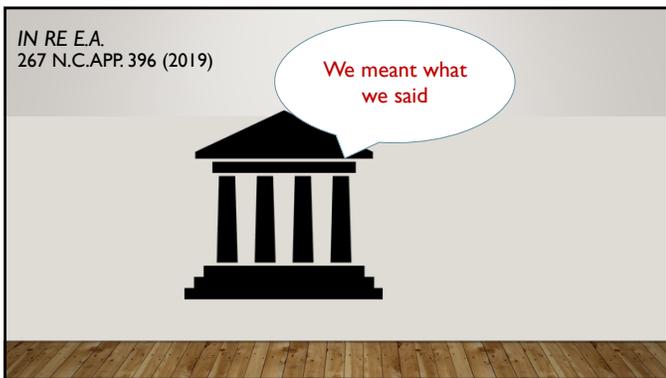
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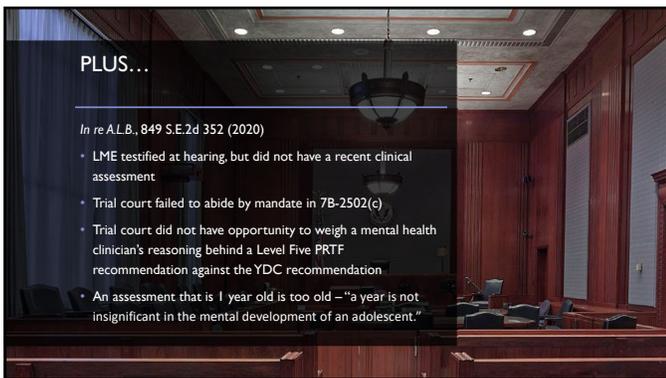
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19



20



21

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Is it sufficient to provide the court with an assessment completed six days prior to disposition by a provider that contracts with the LME?

Yes

No

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22

IN RE K.M., 854 S.E.2D 453 (2021)

- Adjudicated for first-degree statutory sex offense and second-degree forcible sex offense
- Placed at a YDC until group home placement available and then moved to group home
- Motion to "review community commitment status"
- Review hearing
- JCC recommended return to YDC
- Revoked community commitment and returned to YDC

23

TRIAL COURT RECORD OF MENTAL HEALTH ISSUES

- Risk and needs assessment
- Level III placement provider report with an addendum from a therapist
- Report from Rehabilitative Support Services (provider for the LME)
- Testimony from social worker, staff member from Level III group home, and juvenile's mom

24

- Trial court erred by entering a new dispositional order without first referring the juvenile to the LME
- Referral is required regardless of whether the juvenile received mental health services prior to disposition

25

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Is it sufficient if there is a recent CCA and the court did not make a referral to the LME?

Yes

No

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26

**IN RE S.M., JR.
 2021-NCCOA-156
 (2021)
 (UNPUBLISHED)**

* Temporary stay has been issued by the Supreme Court

- CCA by Thompson Juvenile Court Assessment Program
 - Unspecified disruptive, impulse-control, and conduct disorder
 - Other specified trauma and stressor-related disorder
 - mild cannabis use disorder
- Subsequent predisposition report stating need for substance abuse treatment and mental health assessment
- Court had a statutory duty to refer to the LME
- Juvenile in this case did not receive the benefit of the area director's recommendation and involvement in the disposition
- Trial court erred in failing to refer the juvenile to the area mental health services director after it was presented with evidence of the juvenile's mental illness.

27

H.615

- Legislation proposed to eliminate the current statutory language
 - Requires court to order a CCA if there is suspected mental illness or developmental disability
 - Not required if "an appropriate mental health assessment" was conducted within 45 days of the adjudication hearing
 - If CCA ordered and juvenile has severe emotional disturbance or developmental disability that substantially contributed to delinquent behavior, court must order a care review team to be convened by the LME
 - Care review team develops recommendation plan for appropriate services and resources that address identified needs
 - Court must review recommendations when determining disposition

28

- Schoolhouse interrogation
- Referrals to the LME for interdisciplinary evaluation
- Accepting admissions
- Protecting against self-incrimination
- Sufficiency of petition alleging controlled substance offense
- Second-degree sexual offense, first-degree forcible sexual offense, and attempted larceny

AGENDA

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G.S. 7B-2407

- (a) 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

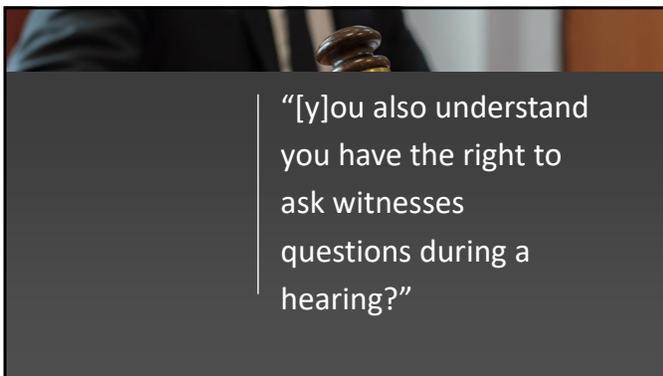
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AOC-J-410

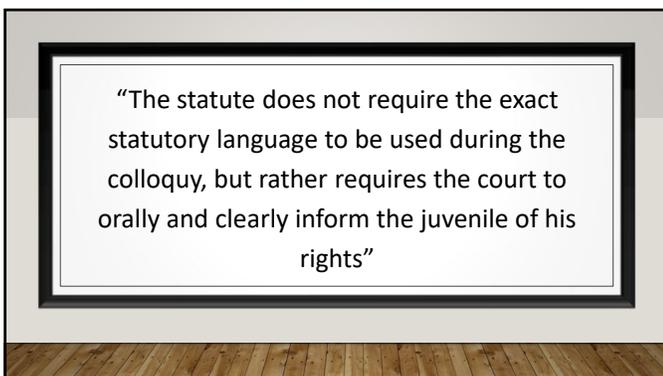
The above-named juvenile, having offered an admission admission pursuant to Alford decision, and being first duly sworn, gives the following answers:

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 witnesses 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) _____

31



32



33

In the Matter of N.L.G., 2021-NCCOA-247 (June 1,2021) (UNPUBLISHED)

BUT SEE ALSO...

The court’s acceptance of the juvenile’s admission without making any of the inquiries and statements required by G.S. 7B-2407 is reversible error.

34

ADDITIONAL ISSUES IN W.M.C.M.

Adjudication Order

"BASED UPON THE JUVENILE'S ADMISSION AND THE EVIDENCE PRESENTED BY THE DA, THE COURT FINDS BEYOND A REASONABLE DOUBT THAT THE [JUVENILE] IS ADJUDICATED DELINQUENT:"

- ✓ written
- ✓ indicated the date of the offenses,
- ✓ the felony classification of the offenses,
- ✓ date of adjudication
- ✓ contained factual findings
- ✓ affirmative admission of responsibility to the charges

35

ADDITIONAL ISSUES IN W.M.C.M.

Disposition Order

- ✓ overwhelming evidence in written findings
- ✓ appropriate findings of fact which illustrate the failures of the less restrictive placements and methods
- ✓ Walter's need for commitment

G.S. 7B-2501(c) – five factors were addressed

36

Schoolhouse interrogation

Referrals to the LME for interdisciplinary evaluation

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Protecting against self-incrimination

Sufficiency of petition alleging controlled substance offense

Second-degree sexual offense, first-degree forcible sexual offense, and attempted larceny

AGENDA

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REMINDER

G.S. 7B-2405(4) :

In the adjudicatory hearing, the court **shall** protect the following rights of the juvenile and the juvenile's parent, guardian, or custodian to assure due process of law:

- (1) The right to written notice of the facts alleged in the petition;
- (2) The right to counsel;
- (3) The right to confront and cross-examine witnesses;
- (4) **The privilege against self-incrimination;**
- (5) The right of discovery; and
- (6) All rights afforded adult offenders except the right to bail, the right of self-representation, and the right of trial by jury.

38

IN THE MATTER OF
A.L.P.,
2021-NCCOA-244
(JUNE 1, 2021)
(UNPUBLISHED)

The court's failure to engage in a colloquy with the juvenile to ensure that the juvenile understands this constitutional right is error.

His testimony formed the basis of and corroborated the assault charge – was prejudicial

39

Schoolhouse interrogation

Referrals to the LME for interdisciplinary evaluation

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Second-degree sexual offense, first-degree forcible sexual offense, and attempted larceny

AGENDA

40

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Does a petition alleging a juvenile delivered "1 orange pill believed/told to be Adderall" adequately allege a controlled substance offense?

Yes

No

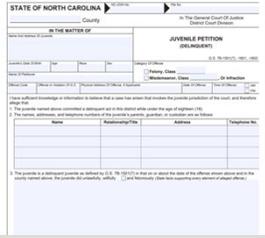
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41

In the Matter of J.S.G., 2021-NCCOA-40

JUVENILE PETITIONS

- serve essentially the same function as criminal indictments
- are subject to the same requirement that they aver every element of a criminal offense, with sufficient specificity that clearly apprises the juvenile of the charged conduct
- a fatally deficient petition fails to evoke the jurisdiction of the court



42

POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO MANUFACTURE, SELL, OR DELIVER

Three elements:

- (1) possession of a substance;
- (2) the substance **must be a controlled substance**; and
- (3) there must be intent to sell or distribute the controlled substance

43

“Ultimately, this indictment fails to “set forth a plain and concise factual statement . . . with sufficient precision clearly to apprise the defendant . . . of the conduct which is the subject of the accusation” as it is unclear whether a controlled substance was involved at all.”

44

- Schoolhouse interrogation
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AGENDA

45

IN THE MATTER OF J.D., 376 N.C. 148 (2020)

Second-degree sexual exploitation of a minor

- Based on acting in concert
- Requires common plan or purpose
- Insufficient evidence: evidence tended to show that J.D. did not want to be recorded, as he told Dan he didn't want it recorded. If the hand gesture at the end of the video was a thumbs up, evidence of acting in concert requires more than mere approval

46

IN THE MATTER OF J.D., 376 N.C. 148 (2020)

First-degree forcible sexual offense

- requires penetration, however slight
- victim unambiguously testified that penetration did not occur
- statements of the other children who were present and the video footage only suggest that penetration could have occurred.
- not enough to overcome the victim's testimony regarding lack of penetration

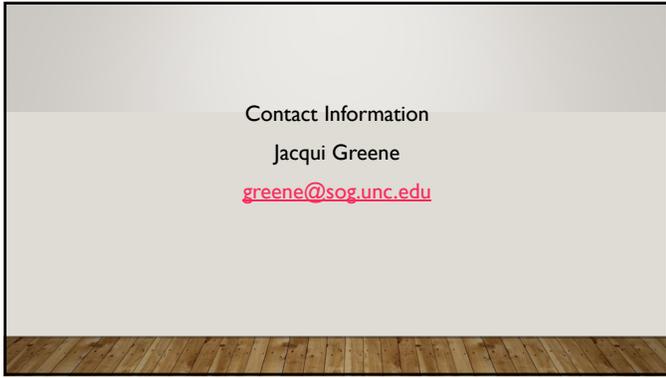
47

IN THE MATTER OF J.D., 376 N.C. 148 (2020)

Attempted larceny

- presence at the crime scene coupled with the juvenile's possession of tools used to commit the crime was sufficient evidence for the trial court to accept his transcript of admission
- initial disposition was based on the adjudications that are now vacated
- cannot be remanded for a new disposition based on adjudication of this offenses because the juvenile turned 18 and there is therefore no longer juvenile jurisdiction in the matter

48



49
