

Juvenile Law Update



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June 21, 2012

Abuse and Neglect: Adjudication & Disposition *S.C.R.*

Mistakes to Avoid

1. Failing to make independent findings
2. Misunderstanding nature of the proceeding
3. Ordering permanent plan without proper notice
4. Failing to address visitation

Abuse and Neglect: Disposition *S.H.*

An order placing a child in DSS custody must include a finding that the child

1. needs more adequate care or supervision, or
2. needs placement.

per G.S. 7B-903



Permanency Planning

T.P.

Custody to non-parent requires finding / conclusion that parents

- are unfit or
- have acted inconsistently with their constitutionally protected status.

*Constitutional argument cannot be made for the first time on appeal.



Permanency Planning

T.P.

To waive review hearings, it is not necessary for the child to have lived with the *same* relative for the preceding year.



Termination of Parental Rights N.C. Supreme Court

Waiver of Counsel

Accepting parent's waiver of right to counsel [P.D.R.]



Termination of Parental Rights
N.C. Supreme Court

Jurisdiction

Court had jurisdiction when TPR was filed while appeal was pending [M.I.W.]



TPR: Verification of Petition
M.M.

No problem for social worker to verify before attorney signs.



TPR: UCCJEA Jurisdiction
J.A.P.

If a custody order exists in another state and a parent remains in that state:

N.C. court must have an order from the other state finding that either

1. the other state no longer has exclusive continuing jurisdiction, or
2. N.C. is a more convenient forum.



Child's Guardian ad Litem
J.L.H.

**A Child's Advocate
In Court**



Guardian ad Litem

- Private TPR
- Attorney Advocate, without GAL, is not sufficient

TPR: Neglect Ground
C.G.R.

1. current neglect, or
2. prior neglect + likely repetition if child returned to parent



Dismissal of TPR Petition
J.K.C.

1. No ground proved by clear and convincing evidence
2. Putative father's name on birth certificate creates presumption of paternity

[Misstates dependency ground]



Private TPRs

D.T.L.; J.S.L.

1. Nonsupport: required court order or agreement
2. Abandonment = no parent-like conduct during 6-month period

- Paternity: If paternity is "in issue," the court must order paternity testing

Amendment to Conform to Evidence

G.B.R.

1. Allowing amendment was not prejudicial
2. Insufficient evidence to support neglect ground

TPR: Order after Remand

A.R.P.

1. Must be complete order
2. May not just supplement order that was reversed



Delinquency



Intake Procedures
T.H.

- When are interviews described in statute required "if practicable"?



Timely Disclosure of Witnesses
A.M.

Prejudicial Error:
When a different result would have been reasonably possible



Alford admission
C.L.

Accepting *Alford* admission by juvenile was not error.



Second Degree Sex Offense
T.W.

- Actual or threatened physical harm required
- Threat to disclose secrets was not sufficient for constructive force
- Different rule if offender is child's parent



Adjudication if Felony Case is not Transferred
J.J.

- Adjudication and disposition were announced after transfer hearing
- Must have findings:
 1. at adjudication – “beyond a reasonable doubt”
 2. to support disposition
 3. to support denial of release pending appeal



Appeal by State
P.K.M.

- State can appeal order granting motion to suppress only if the order terminates prosecution of the case.
- Appeal provision in G.S. Ch. 15A did not apply.


