

2014 JUVENILE DELINQUENCY UPDATE

Recent Case Law

Adjudication Order; Relevant Evidence; Sufficiency of Evidence; Hearing Procedure

In the Matter of M.J.G., ___ N.C. App. ___, 759 S.E.2d 361 (June 17, 2014).

Facts: The juvenile, a Sixth grade student, was charged in juvenile petitions with simple assault and disorderly conduct at school arising from his behavior during a charity volleyball game in the school gym. The juvenile was seated in the bleachers near two other boys who were “getting ready to fight.” When a teacher tried stop the altercation, the juvenile waved her off and told her “no, don’t stop it, go away.” Another teacher saw the juvenile’s actions and told him to come down from the bleachers, so they could talk outside. After repeated requests, the juvenile angrily stood up and left the gym but “body checked” a bystander on his way out. The teacher followed the juvenile outside in the hallway, where he “jumped up, stomped his feet” and shouted obscenities at her and another teacher. Ultimately, the juvenile was removed from the hallway by a school resource officer (SRO).

Held: Affirmed.

- The trial court’s adjudication order was sufficient to comply with G.S. 7B-2411, which requires the court to state, in writing, that “the allegations in the petition have been proved [beyond a reasonable doubt].” The adjudication order incorporated by reference an attached document, entitled “Adjudication Findings of Fact,” which contained detailed findings that the order stated had been proved beyond a reasonable doubt.
- The trial court did not err by allowing a witness to testify that the juvenile had a “very defiant” expression on his face. Evidence of the juvenile’s demeanor was relevant and admissible under Rules 401 and 402 because it was based upon the witness’s personal observations of the juvenile at the time of the incident, and it helped to explain the surrounding circumstances.
- There was sufficient evidence of the juvenile’s intent to support the assault adjudication, including testimony that: there was “plenty of room” for the juvenile to walk around the bystander, she had to steady herself to keep from falling when the juvenile “body checked” her, and the juvenile angrily stormed off the bleachers and “ran right over her.”
- There was sufficient evidence that the juvenile’s behavior caused a “substantial interference” to support the disorderly conduct adjudication, including testimony that approximately 200 to 300 students were in the gym at the time, “everybody” witnessed the disturbance, the teacher who escorted the juvenile from the gym was not able to supervise other students or fulfill her duties, and a group of special needs students missed their bus due to the confusion surrounding the incident.

- Assuming *arguendo* that the trial court erred by failing to give the juvenile's mother an opportunity to speak before entering a disposition, any error was harmless given that the juvenile's mother did not object to the disposition when she was, ultimately, permitted to speak.

Recent Legislation

1. **S.L. 2014-119 (H 369) (Criminal Law Changes): Child Sex Abuse Prevention Study; Remote Testimony by Forensic and Chemical Analysts.** This act makes various criminal law changes and includes the following sections that impact juvenile proceedings:

- Section 4(a) requires the Human Trafficking Commission to study the prevention of child sexual abuse in North Carolina. As part of the study, the Commission must examine age-appropriate curricula for elementary school children on the subject of sexual abuse that could be included in the Basic Education Program for public schools. A final report, including any proposed legislation, must be submitted to the 2015 General Assembly.
- Section 8(a) creates new G.S. 15A-1225.3, which allows remote testimony by a forensic analyst in criminal proceedings. A "criminal proceeding," as defined by this section, includes juvenile delinquency proceedings under Subchapter II of Chapter 7B. This section is effective September 1, 2014, and applies to testimony admitted on or after that date.
- Section 8(b) amends G.S. 20-139.1 to add new subsection (c5), which allows remote testimony by a chemical analyst under G.S. 20-139.1(c1), in all administrative hearings, and in any court. This section is effective September 1, 2014, and applies to testimony admitted on or after that date.
- Section 9(a) amends G.S. 14-269.2(g) to permit detention officers, who are employed and authorized by the sheriff, to carry firearms on campus or other educational property when discharging official duties. This section is effective December 1, 2014, and applies to offenses committed on or after that date.

For the complete list of criminal law changes enacted by this session law, see the legislative summary under number 15 in "Criminal Law and Procedure" on pages 8-9 of the handout "2014 LEGISLATION OF INTEREST TO COURT OFFICIALS."

2. **S.L. 2014-100 (S 744): Secure Custody Orders.** Section 17.1(t) of the Appropriations Act amends G.S. 7B-1904 to provide that a message of "the Department of Public Safety" stating that a juvenile petition and secure custody order have been filed against a particular juvenile is authority for a law enforcement officer to detain the juvenile, until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. Previously, the statute provided that a message of "the Division of Criminal Information, State Bureau of Investigation" gave such authority.