

V. Post-Disposition Scenarios

1. Myra was adjudicated delinquent on 9/29/10 for assault and was placed on probation for one year. On 8/25/11, the court counselor discovered that Myra had stopped attending school regularly and was hanging out with a group of older teens who had dropped out of school. As a result, on 9/7/11, the counselor filed a motion for review based on his concerns that Myra was having problems at school and at home that would worsen unless her probation was extended. The hearing was continued twice, and the case is now before you, on 10/18/11, on the motion for review. Myra's attorney moves to dismiss on grounds that pursuant to G.S. 7B-2510(c) the court lacks authority to extend her probation.
 - How do you rule on the motion? Why?

2. Wally is on Level 1 probation for larceny from the person, a Class H felony. Today he is in court on a motion for review filed by the court counselor, alleging that he violated the terms of his probation by committing a new offense, financial card theft, a Class I felony.
 - If you conclude that Wally did violate the terms of his probation by committing this offense, what options do you have?

3. Finn is on Level 1 probation after having been adjudicated delinquent for B & E of two motor vehicles. A probation violation motion is filed and he is found to be in violation by missing his curfew, smoking marijuana, and getting suspended from school. The court counselor recommends and the prosecutor requests that Finn be put on Level 2 probation and that the maximum number of detention days be ordered. The prosecutor and defense counsel disagree as to how many days that would be.
 - a. What is the maximum number of detention days you can order?

 - b. How would an order imposing that number of days be worded?

4. Ellen was adjudicated delinquent and committed to a youth development center for robbery with a firearm, a Class D felony under G.S. 14-87. Ellen, now 16, was released from the YDC a month ago. She is in court on a motion for review alleging that she violated the terms of her post-release supervision because she violated her curfew, did not enroll in school, did not seek employment, and left home to live with her boyfriend, who has a long criminal record. The court counselor recommends a recommitment to the YDC.
 - a. If you recommit Ellen, how would the order read with respect to the length of the commitment?
 - b. Would your order be different if the court counselor informs you that Ellen had to be brought to the hearing from jail, because she and her boyfriend were arrested last night and charged with drug trafficking, possession of drug paraphernalia, and larceny of a motor vehicle?
5. On 1/1/11, fourteen-year-old Evan was successfully terminated from a Level 2 probation for 2nd degree kidnapping and burglary. On 5/1/11, Evan was adjudicated for simple assault and put on Level 2 probation for 12 months until 5/1/12. After a hearing on 10/10/11 on a motion for review, you find that Evan violated probation by being in a gang, not going to school, and participating in a breaking, entering, and larceny. The prosecutor asks for a YDC commitment. Evan's attorney argues that commitment is not an option.
 - Can you enter a Level III disposition?
6. At disposition, Tim was placed in DSS custody and put on probation for six months.
 - a. Almost three months later, Tim's case is on your "DSS calendar" for a review hearing. The record does not include any motions, but shows that DSS has given notice of the hearing to Tim's mother and foster parents.
 - (1) Is the case properly before you?
 - (2) How would you proceed?
 - b. Three months after that hearing, the court counselor asks you to sign orders for several cases, including Tim's, finding that probation has been completed successfully and ordering that jurisdiction in the case is terminated.
 - (1) If Tim has completed probation successfully, is entry of the order in his case proper?
 - (2) Is a hearing required?

7. Ralph was adjudicated delinquent for first-degree sexual offense and committed to DJJDP for placement in a youth development center.
 - a. Two months later you receive a motion filed by DJJDP recommending that Ralph receive commitment services at a community residential treatment program instead of a YDC. Attached to the motion is a report describing the proposed services and a certificate of service indicating that notice of the motion has been mailed to the district attorney, Ralph, and Ralph's parents.
 - (1) Are you required to conduct a hearing on the motion?
 - (2) Has DJJDP given sufficient notice of the motion?
 - b. Two months before Ralph's 18th birthday, his case is before you at the request of his mother for a review of DJJDP's decision that Ralph should not be released before he is 18 and should remain committed for a period up to his 21st birthday.
 - (1) Who is entitled to notice of this hearing?
 - (2) Who has a burden of proof at the hearing, and what is it?
 - (3) After hearing evidence, what are your options?