

**Juvenile Cases Decided by the
North Carolina Court of Appeals**

November 20, 2012

Permanency Planning; Termination of Parental Rights

Permanency planning: importance of well-drafted orders and sufficient findings

In re H.J.A., ___ N.C. App. ___, ___ S.E.2d ___ (Nov. 20, 2012).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi02MzgtMS5wZGY=>

Facts: Both children came into DSS custody as dependent juveniles soon after their births, when respondent mother was a minor in DSS custody. The father of only one of the children was identified, and he was incarcerated. At a permanency planning hearing a year and a half after the second child came into custody, the court adopted a concurrent plan of reunification and adoption and ceased reunification efforts with respondent mother. The court's findings included that return home was possible within six months; that DSS had not made reasonable efforts to implement the permanent plan; and that efforts to reunify with respondent mother would be futile. Respondent mother gave notice of her intent to appeal the order. Subsequently the trial court terminated respondent's and the fathers' rights on three grounds, and respondent, but neither father, appealed both orders.

Held: The court of appeals reversed both orders and remanded for additional findings of fact, but discussed only the permanency planning order.

1. The court noted the confusion caused by the order's dealing with both respondent mother and the father of one child without making clear which findings related to which parent. Only after reviewing the transcript did the court fully understand the trial court's intent, including that references to possible reunification related to the father of one child, not to the respondent.
2. The order failed to make the findings required by G.S. 7B-907(b). While the order found that it would be contrary to the child's best interest to be returned to respondent, it did not include evidentiary findings sufficient to support that ultimate finding. Because there was evidence from which the court could have made the required findings, the court remanded for additional findings.
3. Many of the "findings" in the order were merely recitations of witnesses' testimony, which do not constitute findings of fact.
4. Merely incorporating GAL reports or DSS summaries, without making specific findings, is insufficient.

TPR: dependency ground and "alternative child care arrangement"

In re K.O., ___ N.C. App. ___, ___ S.E.2d ___ (Nov. 20, 2012).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMi03MjItMS5wZGY=>

Facts: In a civil custody action in 2008 petitioner (an unrelated acquaintance) was awarded full custody of the child, based on the court's determination that the mother had abandoned the child "to petitioner's exclusive care and control" and had not dealt with her drug problem. In 2011, petitioner filed a petition to terminate respondent's rights based on the dependency ground. The court adjudicated that ground and terminated respondent's rights.

Held: Affirmed.

1. When petitioner had custody of the child pursuant to a court order, due to respondent's abandonment and substance abuse problems, respondent could not characterize custody with petitioner as her suitable alternative child care arrangement.
2. Having affirmed termination based on the dependency ground, the court of appeals did not consider two other grounds that were added to the petition by amendment and were also adjudicated.

Appellate court opinions: <http://www.aoc.state.nc.us/www/public/html/opinions.htm>.

Earlier case summaries: <http://www.sog.unc.edu/node/513>.

Other juvenile law resources: <http://www.sog.unc.edu/node/1689>



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