

**Juvenile Cases Decided by the
North Carolina Supreme Court**
January 27, 2012
Termination of Parental Rights; Delinquency

Termination of Parental Rights

Jurisdiction when motion filed during appeal

- Filing a motion to terminate parental rights while an appeal in the underlying case is pending does not deprive the trial court of jurisdiction in the termination case when the court takes no action “exercising jurisdiction” before the appellate court’s mandate issues.

In re M.I.W., __ N.C. __, __ S.E.2d __ (January 27, 2012), *affirming*, __ N.C. App. __, 708 S.E.2d 216 (2011) (*unpublished*).

<http://appellate.nccourts.org/opinions/?c=1&pdf=MjAxMi8xNDhQQTEuLTEucGRm>

Facts: The court of appeals, in an unpublished opinion, affirmed an order terminating respondents’ rights. The court rejected respondents’ argument that the trial court lacked subject matter jurisdiction in the termination action because the motion in the cause was filed while respondents’ appeal of the disposition order in the underlying case was pending.

Held: The Supreme Court affirmed (with two justices dissenting).

1. Interpreting the language in G.S. 7B-1003(b), the court distinguished between “having” jurisdiction and “exercising” jurisdiction, holding that the statute did not deprive the trial court of jurisdiction during the appeal, but prohibited the court only from exercising jurisdiction and conducting hearings.
2. In the juvenile court context, exercising jurisdiction “requires putting the court’s jurisdiction into action by holding hearings, entering substantive orders or decrees, or making substantive decisions on the issues before it.” The trial court’s entering two orders to continue the hearing in the termination case did not violate G.S. 7B-1003(b).
3. Because the trial court did nothing that constituted exercising jurisdiction until after the mandate issued and the 15-day period in which a petition for discretionary review could have been filed, the court did not err in denying respondents’ motion to dismiss the termination action and did not violate G.S. 7B-1003.

Delinquency

The Supreme Court declined to review the case summarized below, which was decided on May 17, 2012.

Court's duty when juvenile testifies.

- Before a juvenile testifies in his/her own delinquency case, the court must inform the juvenile of the privilege against self-incrimination.
- Failure to so inform the juvenile is reversible error unless harmless beyond a reasonable doubt.

J.R.V., ___ N.C. App. ___, 710 S.E.2d 411 (May 17, 2011), *disc. rev. allowed*, ___ N.C. ___, 717 S.E.2d 372 (August 25, 2011). **Jan 27, 2012, review improvidently allowed.**

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMTE2LTEucGRm>

Facts: The juvenile was alleged to be delinquent for committing misdemeanor larceny in relation to stolen farm equipment. After the state's evidence at the adjudicatory hearing, the juvenile testified that he was not involved in the larceny and that he had not seen anyone else steal the farm equipment. The juvenile was adjudicated delinquent and placed on probation. He argued on appeal that the trial court erred by failing to inform the juvenile, before he testified, of his privilege against self-incrimination.

Held: Affirmed.

1. Before a juvenile respondent testifies in his or her own delinquency case, the court must inform the juvenile of the privilege against self-incrimination and determine that the juvenile understands the privilege.
2. Failure to so inform the juvenile in this case, however, was not reversible because all of his testimony was either consistent with the State's evidence or favorable to the juvenile, and the error was harmless beyond a reasonable doubt.

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

Earlier case summaries can be found at <http://www.sog.unc.edu/node/513>



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