

**Juvenile Case Decided by the  
North Carolina Court of Appeals**  
February 21, 2012  
*Termination of Parental Rights*

*The case summarized below, reported originally as an unpublished opinion, has been published.*

Termination of Parental Rights

Findings were not supported by clear and convincing evidence.

- In a private tpr, the nonsupport ground requires proof of a court order or agreement for the payment of support.
- Willful abandonment did not exist when, during the relevant 6-month period, respondent (i) was ordered not to contact the children and (ii) filed a civil action seeking visitation.

**In re D.T.L., \_\_ N.C. App. \_\_, \_\_ S.E.2d \_\_ (February 21, 2012).**

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMi8xMS0xMDkwLTEucGRm>

**Facts:** After respondent was released from prison, his children's mother obtained a protective order that prohibited him from contacting her or the children. In November 2010 respondent filed a civil custody action seeking secondary custody and generous visitation. In February 2011 petitioner filed a petition to terminate respondent's rights. The court adjudicated the grounds of willful nonsupport and willful abandonment, and terminated respondent's rights.

**Held:** Reversed.

1. In a private termination action, the nonsupport ground under G.S. 7B-1111(a)(4) requires proof of either a court order or an agreement between the parties providing for the payment of child support. In this case no agreement or order was alleged, introduced into evidence, or found as a fact.
2. The trial court's findings did not support its conclusion that respondent willfully abandoned the children during the six months immediately preceding the filing of the petition, because
  - a. respondent was under a court order not to have contact with the children, and
  - b. respondent's filing of a civil action seeking visitation with the children established that he did not intend to forego his role as a parent.

*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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