

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

January 15, 2013

Abuse, Neglect, Dependency

- It was clear from the record that the role of respondent's GAL was one of assistance.
- The court's inquiry before allowing respondent to proceed pro se was sufficient.
- The trial court erred in waiving further reviews without making the necessary findings.

In re A.Y., ___ N.C. App. ___, ___ S.E.2d ___ (Jan. 15, 2013).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMy8xMi04MC0xLnBkZg>

Facts: Before adjudication the court appointed a guardian ad litem for respondent mother. When her attorney asked to withdraw and respondent asked to be allowed to proceed pro se, the court ordered her to have a psychological evaluation and appointed another attorney. The psychologist reported that respondent's poor decision making was due to personality problems, not cognitive limitations. When respondent again asked to be allowed to proceed pro se the court engaged in an exchange with respondent to assess her understanding of the nature and significance of the proceeding and her awareness of the consequences of representing herself, then allowed her to proceed pro se. After the permanency planning hearing the court ceased reunification efforts, granted guardianship to the child's grandparents, and ordered that reviews be held only on motion of a party.

Held: Affirmed in part; reversed and remanded in part.

1. Appointment of a GAL for respondent did not preclude her from waiving counsel and limit the ability to do that to the GAL. Although the order appointing respondent's GAL did not specify whether the GAL's role was one of substitution or assistance, a distinction addressed in *In re P.D.R.* ___ N.C. App. ___, ___ S.E.2d ___ (Dec. 18, 2012), after the trial court acted in this case, the court held that the intention that the GAL's role be one of assistance was clear from the trial court's findings and from the record, including statements by the GAL.
2. The trial court's inquiries of respondent were sufficient for the trial court to determine that respondent's waiver of counsel was voluntary and knowing. The supreme court, in *In re P.D.R.*, ___ N.C. ___, 723 S.E.2d 335 (Apr. 13, 2012), held that the provisions in G.S. 15A-1242 for waivers in criminal cases do not apply in civil cases.
3. After reviewing the trial court's findings the court held that they were sufficient to support the trial court's decision to cease reunification efforts and grant guardianship. Findings related in part to a pattern of poor parenting, ongoing conflict and domestic violence, and respondent's limited progress toward seven treatment goals.
4. Waiving review hearings without making the findings required by G.S. 7B-906(b) was error.

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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