

Juvenile Delinquency Case Decided by the North Carolina Court of Appeals
December 17, 2013

Delinquency History Points; Modification of Disposition Order

- Pursuant to G.S. 7B-2600, a trial court may modify a prior disposition order that was based upon an erroneous calculation of the juvenile's delinquency history level.

In the Matter of A.F., ___ N.C. App. ___, ___ S.E.2d ___ (December 17, 2013).

<http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMy8xMy02MTAtMS5wZGY=>

Facts: Prior to the expiration of the juvenile's probation, which was set to expire on June 13, 2012, a motion for review was filed alleging the juvenile violated his probation. However, the juvenile failed to appear for the probation violation hearing. At an adjudication hearing held on October 8, 2012, on a new petition, the juvenile admitted both violating his probation, as alleged in the earlier motion for review, and that he had committed felony breaking and entering (B&E) on August 9, 2012, as alleged in the new petition. At disposition, the trial court determined that the juvenile had four delinquency history points, two of which were based on the trial court's belief that the juvenile was still on probation at the time he committed the felony B&E. The four points placed the juvenile in a "high" delinquency history level, which allowed the court to enter either a Level 2 or Level 3 disposition, pursuant to the dispositional chart. The trial court entered a Level 3 disposition and committed the juvenile to a youth development center (YDC). The juvenile filed a motion to modify the disposition order, under G.S. 7B-2600, asserting that the trial court erroneously calculated his delinquency history level because he was not on probation at the time of the felony B&E. The trial court denied the juvenile's motion, and the juvenile appealed.

Held: Reversed and remanded.

- The trial court erred by denying the juvenile's motion to modify the disposition order based upon the erroneous calculation of the juvenile's delinquency history level. Because the trial court never extended the juvenile's probation, it expired on June 13, 2012, which precluded the assignment of the two additional points for the juvenile's probation status at the time of the offense, which occurred in August, 2012. In the absence of this error, the trial court had no authority to impose a Level 3 disposition and commit the juvenile to a YDC.
- Pursuant to G.S. 7B-2600(b), the trial court was authorized to correct an error of law in an earlier disposition order.
- The Court rejected the State's argument that by assigning the two additional points and entering a Level 3 disposition, the trial court had implicitly and retroactively extended the juvenile's probation.



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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>.