

Incompetency and Adult Guardianship
NC Court of Appeals and NC Supreme Court
Meredith Smith, UNC School of Government
January 1, 2015 – October 4, 2016

Rule 11

[In re Cranor](#) (COA15-541; May 17, 2016) (with dissent).

In this interesting but very fact-specific case, the trial court disciplined an attorney (the appellant) in its inherent authority and under Rule 11 and ordered her to pay substantial attorney fees to the opposing party and his attorney. The issues relate to the appellant's conduct in representing the respondent in an incompetency proceeding. The Court of Appeals reversed, with the majority holding that the record did not support the trial court's findings of fact regarding the bases for Rule 11 sanctions or sanctions imposed in its inherent authority. The dissenting judge opined in detail that, under the proper review standards for Rule 11 and disciplinary orders, the Court of Appeals should have affirmed the trial court's orders imposing discipline and awarding fees. (I will await a disposition by the Supreme Court, if there is one, to provide a more detailed summary of this case.) (*Summary by Ann Anderson*).

Appeal of Dismissal of Incompetency Proceeding

[In re Dippel](#) (COA16-54; Sept. 20, 2016).

Petitioner filed incompetency proceeding against his father, the respondent. The assistant clerk of court found there was not clear, cogent, and convincing evidence of the respondent's incompetency and entered an order dismissing the proceeding. The petitioner appealed the clerk's order. The superior court held that the petitioner lacked standing to appeal the order of the clerk as GS 35A-1115 did not provide a right of appeal from an order dismissing an incompetency proceeding. The NC Court of Appeals, applying GS 35A-1115 and GS 1-301.2, reversed the order of the superior court and held that an aggrieved party has the right to appeal from the clerk's order dismissing an incompetency proceeding. In this case, the court determined that the petitioner was an aggrieved party and could appeal from the clerk's order. However, the court did not provide any analysis as to how the petitioner is aggrieved by the clerk's order dismissing the incompetency proceeding against the respondent.