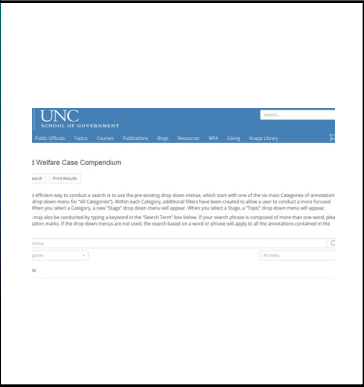


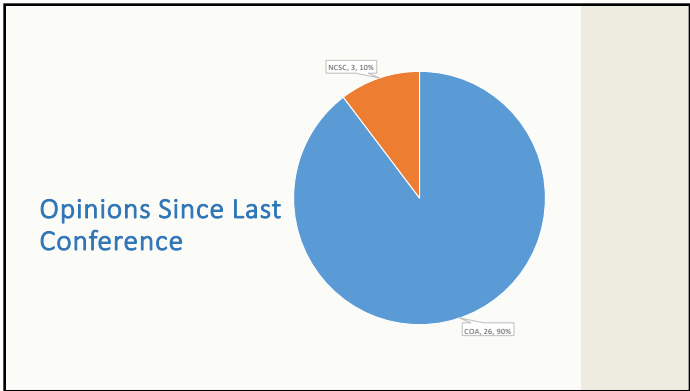
Case Update I Parent Attorneys Conference (2024)

BY: SARA DEPASQUALE,
UNC SCHOOL OF GOVERNMENT



The screenshot shows the UNC School of Government website with a search bar at the top. Below the search bar, there is a section titled "Welfare Case Compendium" with a search input field and a "SEARCH" button. A small text box explains the search functionality: "A helpful way to conduct a search is to use the pre-existing drop down menus, which start with one of the six main Categories of annotation. Drop down menus for 'COA Categories' allows each category, additional filters have been created about case to conduct a search based on when you select a Category, a 'New' 'Open' drop down menu will appear. When you select a 'Stage' a 'Type' drop down menu will appear. They can be combined by being a keyword in the Search Entry you select. If you search phrases to compound of more than one word, the search marks. If the drop down menus are not used, the search based on a word or phrase will apply to all the annotations contained in the database."

1



2

Today's Topics

- Jurisdiction
- Parties and Representation
- Abuse and Neglect
- Dispositions
- TPR
- Appellate Issues

3

7B-1101: Jurisdiction

In re M.A.C. (p. 34)

- "Found in"
- "Resides in"

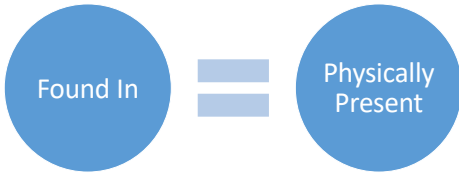


TPR
Petition

Children reside in
Columbus and
present in Harnett
County when
petition filed



4



5

UCCJEA In re R.G. (p. 51)

May 2019: Dad moves
Sept. 2019: Custody act, joint custody



Temporary
Emergency

Nov. 2018:
Adopted by mom & dad

Dec. 2021, DSS petition/NSC
2022 mom contests SMJ

<https://wellfuturesun.com/blog/2021/05/25/the-new-york-north-carolina-connection/>

6

What's Required?

Is This Sufficient?



7

Modification Jurisdiction

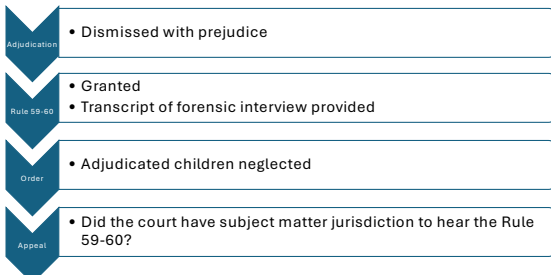
- Order from other state preferred but not expressly required
- Docket entry ok (In re T.R.); Letter is analogous
- Letter has substantive attributes of order
 - Facts
 - Conclusion re: SMJ
 - Indicia of veracity and officiality (stationary, facts, judge's signature)




8

Terminate Jurisdiction

In re K.C. (p. 30)



9



7B-201

- Rule 59-60 does not claw back jurisdiction
- Appeal

10


Today's Topics

- Jurisdiction
- Parties and Representation
- Abuse and Neglect
- Dispositions
- TPR
- Appellate Issues

11

Removal of Party

In re E.E. (p. 6)



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graph LR
    A[2019 Neglected juveniles] --> B[2021 New Petition]
    C[Permanent Custody to GM and H] --> B
    B --> D[Abused Neglected Juveniles]
    D --> E[Custody DSS Placement GM]
    E --> F[GAL Motion Granted H removed Order Appealed]
  
```

12

7B-401.1(g)

Findings

- No legal rights affected by removal
 - DSS custody
- Continuation as party not necessary to meet juvenile's needs
 - \$ support for GM
 - Sexual abuse, criminal charges, DVPO



13

What's odd about this appeal?

14

Today's Topics

- Jurisdiction
- Representation
- Abuse and Neglect
- Dispositions
- TPR: Abandonment
- Appellate Issues

15




Abuse
Conflicting Expert Testimony
In re E.H. (p. 7) (Stayed 7/15/24)

16

Neglected: Sibling (p. 11)

- Sole caretakers of infant
- Nonaccidental injuries
- No explanation
- Married parents
- Pending criminal charges



17



**Neglect:
Single Act**

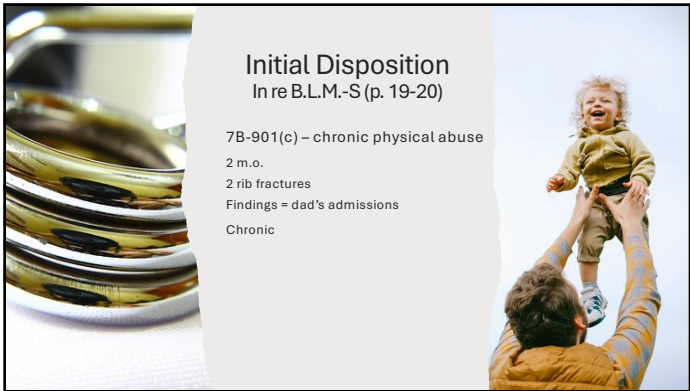
- In re A.H. (p. 9)
 - Distinguish Stumbo, HP, and V.M.
 - Below normative standards of care
 - Findings are key
 - Totality of evidence

18

Today's Topics

- Jurisdiction
- Parties Representation
- Abuse and Neglect
- **Dispositions**
- TPR
- Appellate Issues

19



Initial Disposition
In re B.L.M.-S (p. 19-20)

7B-901(c) – chronic physical abuse
2 m.o.
2 rib fractures
Findings = dad's admissions
Chronic

20

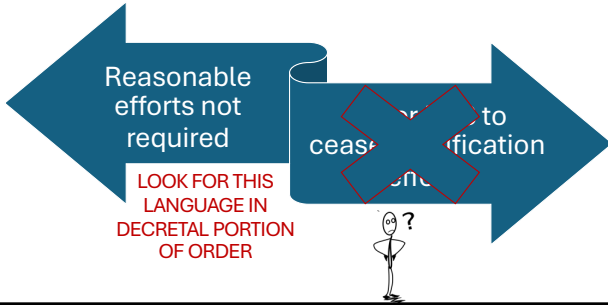


Discretion of trial court

Not recommended by DSS

21

Statutory authority



22

Order No Contact



7B-904: steps to remedy conditions led to removal

23

Guardianship Ordered In re J.O. (p. 26)

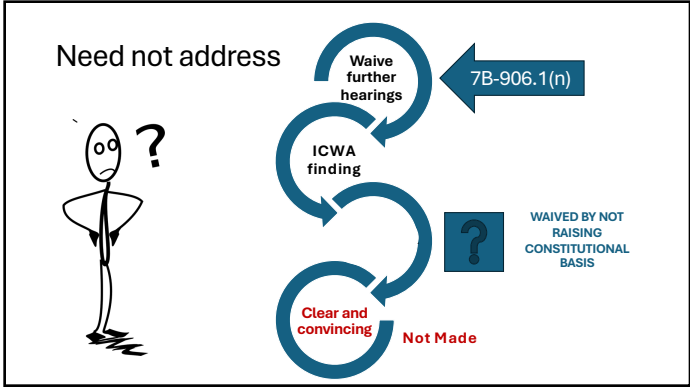
No ICWA findings clear and convincing evidence

- QEW, serious emotional or physical damage to child



25 USC 1912
25 CFR 23.121 - .122
In re E.G.M., 230 N.C. App. 196 (2013)

24



25

Today's Topics

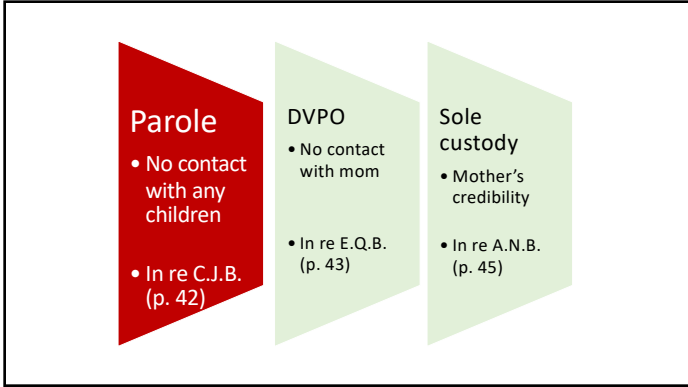
- Jurisdiction
- Parties and Representation
- Abuse and Neglect
- Dispositions
- **TPR**
- Appellate Issues

26

TPR: Abandonment

Limits on contact

27



28

TPR: Sexually Related Criminal Offense

In re N.J.R.C. (p. 46)

Purpose of arousing or gratifying sexual desire

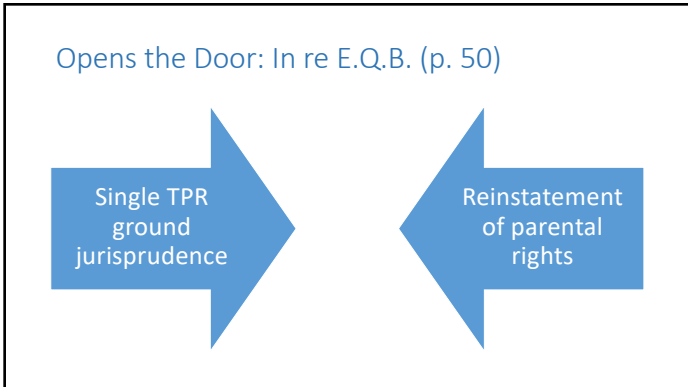
§ 14-202.1. Taking indecent liberties with children.

(a) A person is guilty of taking indecent liberties with children of being 16 years of age or more and at least five years older than the child in question, he either

- (1) Willfully takes or attempts to take any manual, impure, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or
- (2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

§ 14-208.6(5): Definition, Sexually Violent Offense 14-202.1

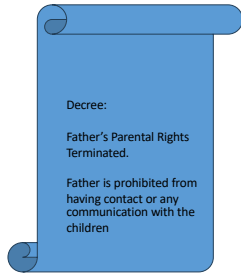
29



30

Disposition

In re E.Q.B. (p. 47)



31

Today's Topics

- Jurisdiction
- Parties and Representation
- Abuse and Neglect
- Dispositions
- TPR
- Appellate Issues

32

7B-1001: Appealable Orders

Absence of jurisdiction

In effect determinations action and prevents judgment which appeal might be taken

Adjudication and initial disposition

Change legal custody (not a NSC)

PPO eliminate reunification

TPR grant/deny

33

Which Orders Can Be Appealed

In re R.G. (p. 32)

Initial disposition order relieves DSS of reunification efforts



First PPO: concurrent plans guardianship and custody to relative



Second PPO: guardianship ordered to grandmother



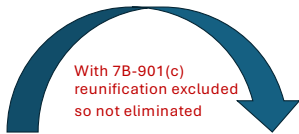
34

How?

Initial disposition order relieves DSS of reunification efforts

First PPO: concurrent plans guardianship and custody to relative

With 7B-901(c) reunification excluded so not eliminated



35

7B-1002: Standing to Appeal

Juvenile

DSS

Parent, guardian, custodian who is nonprevailing party

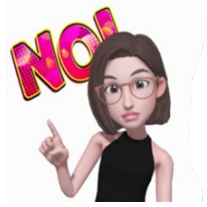
Party seeking but denied TPR

36

Caretaker

In re L.C. (p.33) (Stayed 5/7/24)

- “Father”
- Paternity
- Dismissed



37

Inadequate Transcript

In re X.M. (p. 48)

- Burden on appellant
- Agreed narrative of TPR proceeding
- Judicial notice of prior orders and reports
- Prejudice required
- Appellate review not precluded

38

No Merit Brief

In re J.B. (p. 51)

[Redacted]

SMJ merit

[Redacted]

A cartoon illustration of a woman with brown hair and glasses, wearing a black top. She is pointing her right index finger towards a large, colorful, 3D-style 'NO!' sign that is partially obscured by her head.

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