

DISPOSITIONS: OPTIONS FOR YOUR CLIENT

Eric J. Zogry
Juvenile Defender
Office of the Juvenile Defender
123 West Main Street
Suite 610
Durham, NC 27701
phone: (919) 560-5931
fax: (919) 560-5933
Eric.J.Zogry@nccourts.org

Dispositions (§7B-2500 through §7B-2508)

- I. Research the prior record of the juvenile
 - A. research file at the clerk's office (*see Prior Record and Scoring Prior Record forms*)
 - B. determine possible disposition level on disposition chart (*see Disposition Chart*)
 - C. consult NC-JOIN (North Carolina Juvenile Online Information Network) record (*see Request for Release of Department of Juvenile Justice File form*)
 - D. consult with court counselor from other jurisdiction(s), if the juvenile has a delinquency history in other districts
- II. Know your disposition alternatives
 - A. study the statutory list: §7B-2506 (*see Juvenile Disposition Options chart*)
 - B. compile a list of local, regional, and state alternatives
 1. receive information from your local court counselor's office
 2. obtain information from local services directly
 3. attend your local Juvenile Crime Prevention Council (JCPC) meeting
 4. contact the Office of the Juvenile Defender
- III. Discuss recommendations with the court counselor and the assistant district attorney
 - A. receive disposition report
 1. *when* can you receive the report?
 - Some local rules provide for the report to be delivered a time certain before the hearing
 2. check the risk and needs assessments point totals

- IV. Discuss recommendations and possible outcomes with the juvenile and the family/guardian
- V. Prepare your own recommendations!
- VI. Object to information not “relevant, reliable and necessary” (§7B-2501(a)) and protect the record for appeal
- VII. Special Issues:
 - A. Youth Development Centers
 1. How does one get to the Youth Development Center (i.e. training school)? (*see Disposition Chart*)
 - If adjudicated on a minor offense, the juvenile needs to be adjudicated of 4 or more prior offenses.
 - If adjudicated on a serious offense (F through I felony or A1 misdemeanor), the juvenile needs four or more prior points; but if the juvenile is on probation for a serious offense and violates probation, training school is an option.
 - If adjudicated on a violent offense (A through E felony), the juvenile can be committed with any prior record.
 - Commitment is usually for an indefinite period. However, under §7B-2513(b), a juvenile may be committed to a definite term of not less than six months and no more than 2 years if the court finds that the juvenile is 14 or older, has been previously sent to the Youth Development Center, and has been previously adjudicated for two or more felony offenses.
 - B. Credit for time served?
 1. *In re Allison*, 143 N.C. App. 586, 547 S.E.2d 169 (2001). The juvenile had been committed to training school, released on conditional release status, and violated the requirements of the conditional release. After admitting the violation, the juvenile remained in a detention center while pending disposition. The court found that the time spent in detention pending the re-commitment to training school could be counted against the remaining time to be served in training school.

C. Detention (secure custody) pending placement: §7B-1903(c)

VIII. Case Law

- *In Re McDonald*, 133 N.C. App. 433, 515 S.E.2d 719 (1999). Juvenile adjudicated delinquent of injury to real property, spraying the message "Charles Manson Rules" on another person's property. Disposition was entered ordering juvenile not to watch television for one year. The juvenile argued that this punishment violated the juvenile's First Amendment rights, but the Court held the disposition constitutional. The Court found that the punishment was related to the delinquent conduct influenced by television (juvenile stated she saw a show on TV describing the criminal acts of Charles Manson).
- *In Re M.E.B.*, 153 N.C. App. 278, 569 S.E.2d 683 (2002). Juvenile adjudicated delinquent of felony breaking and entering and felony possession of burglary tools. One condition of special probation was that the juvenile was to wear a sign stating "I AM A JUVENILE CRIMINAL" whenever the juvenile was out in public for the rest of the school term. The Court found this condition unlawful, stating that the sign amounted to disclosure to the public of the juvenile's status, which is protected under the Juvenile Code. The Court also found that the juvenile's opportunity not to wear the sign could only occur at home, effectively creating a house arrest situation, which was not authorized under the Code.
- *In Re John R. Ferrell, Juvenile*, 162 N.C. App. 175, 589 S.E.2d 894 (2004). The juvenile admitted responsibility for the charge of assault inflicting serious injury and was adjudicated delinquent. At the time of disposition, the juvenile was living with his mother. Based on information given to the court by the court counselor, the court transferred custody to the juvenile's father as a condition of disposition. The juvenile on appeal argued that the court failed to make findings of fact in the dispositional order supporting a change in custody. The Court of Appeals set aside the part of the order changing custody, stating that under §7B-25019(c), the dispositional order failed to contain "appropriate findings of fact and conclusions of law" to support a change in custody.

- *In the Matter of: Travis Ray Butts*, 358 N.C. 370, 595 S.E.2d 146 (2004). Juvenile was adjudicated of first-degree sex offense. Among other issues, the juvenile argued that the court erred by imposing a condition of probation that the juvenile must admit his guilt in order to participate in sex offender treatment. The juvenile argued that this condition violated his Fifth Amendment right protecting against self-incrimination as stated under the United States Constitution. The Court of Appeals agreed, analogizing the case to the rule of law in adult criminal court, which protects a convicted sex offender's right not to admit guilt for the purpose of sex offender treatment. The court did note, however, that though the juvenile need not admit guilt as a condition of probation, the court can still order the juvenile engage honestly as part of any treatment or counseling. The Supreme Court affirmed the Court of Appeals decision, noting that review had been improperly granted.
- *In the Matter of T.P.*, 2004 N.C. App. LEXIS 1520 (2004) (unpublished opinion). The juvenile was adjudicated of misdemeanor breaking and entering, felony breaking and entering, felony larceny and injury to real property. Disposition was entered and consolidated on all four charges. The juvenile filed a motion for appropriate relief regarding the misdemeanor charge, and based on new evidence the trial court vacated that adjudication. However, the trial court did not vacate the dispositional order, which included paying restitution in the vacated matter. The juvenile on appeal argued that the trial court committed reversible error by not vacating the order in its entirety. The Court of Appeals recognized that although there are differences between criminal and juvenile trials, past court decisions regarding re-sentencing are "instructive," noting that similar cases in adult court resulted in new sentencing hearings. Therefore, the Court remanded the case to the trial court for new disposition.

PRIOR RECORD			
OFFENSE	DATE OF ADJ.	DISPOSITION	CLASS

<i>Name</i>	<i>File No.</i>	<i>DOB</i>
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SCORING PRIOR RECORD			
NUMBER	TYPE	FACTORS	POINTS
	Prior Felony Class A through E Adjudication	X4	
	Prior Felony Class F through I or Misdemeanor Class A1 Adjudication	X2	
	Prior Misdemeanor Class 1 through 3 Adjudication	X1	
		SUBTOTAL	
	If the offense was committed while on probation	+2	
		TOTAL	

CLASSIFYING PRIOR RECORD LEVEL		
POINTS	LEVEL	PRIOR RECORD LEVEL
0-1	I	
2-3	II	
4 +	III	

DISPOSITION CHART

OFFENSE	DELIQUENCY HISTORY		
	LOW	MEDIUM	HIGH
VIOLENT	Level 2 or 3	Level 3	Level 3
SERIOUS	Level 1 or 2	Level 2	Level 2 or 3
MINOR	Level 1	Level 1 or 2	Level 2

OFFENSE CLASSIFICATION:

1. Violent: adjudication of a Class **A** through **E** felony
2. Serious: adjudication of a Class **F** through **I** felony or Class **A1** misdemeanor
3. Minor: adjudication of a Class **1** through **3** misdemeanor

POINT ASSIGNMENT:

1. Prior adjudication of a Class A through E felony – **4** points
2. Prior adjudication of a Class F through I felony or Class A1 misdemeanor – **2** points
3. Prior adjudication of a Class 1 through 3 misdemeanor – **1** point
4. If the juvenile was on probation at the time of the offense – **2** points

DELIQUENCY HISTORY LEVELS:

1. Low: no more than **1** point
2. Medium: at least **2** but not more than **3** points
3. High: **4** or more points

***A juvenile who has been adjudicated for a minor offense may be committed to a Level 3 disposition if the juvenile has been adjudicated for 4 or more separate prior offenses.**

***If the juvenile was adjudicated for more than one offense in a single session of district court, only the adjudication for the offense with the highest point total is used.**

***If a juvenile is adjudicated for more than one offense during a session of juvenile court, the court must consolidate the offenses for disposition and impose a single disposition for the class of offense and delinquency history level of the most serious offense.**

REQUEST FOR RELEASE OF DEPARTMENT OF JUVENILE JUSTICE FILE

TO: _____, Chief Court Counselor

FROM: _____, Attorney for the Juvenile

RE: _____, Juvenile

CASE: ____ J ____

Pursuant to North Carolina General Statutes §7B-3001(c), please make available the above-referenced juvenile's file maintained by your office so that the undersigned attorney may review and/or copy the file in order to provide legal representation for the juvenile. The file should include the following documents and information:

- Family background information;
- Any report made by any individual or group involving the juvenile or the juvenile's family's social, medical, psychological, psychiatric, or education status;
- Any interviews made by the court counselor;
- Any information regarding the juvenile's prior record in any and all districts in the State of North Carolina, including but not limited to a print out of the juvenile's NCJOIN file;
- Any other information gathered regarding the juvenile

Please let me know when the file will be made available. Thank you for your cooperation in this matter.

_____, Assistant Public Defender

Defender District _____

JUVENILE DISPOSITION OPTIONS

LEVEL 1: COMMUNITY	LEVEL 2: INTERMEDIATE	LEVEL 3: COMMITMENT
1. custody of juvenile to home/custodian/DSS	Any Level 1 <i>disposition may be imposed but at least one of the following must be imposed:</i>	1. training school not less than 6 months
2. alternative schooling	1. wilderness program	*court may impose a Level 2 disposition if it submits written findings of extraordinary needs of the juvenile
3. community based/substance abuse/residential or nonresidential treatment up to 12 months	2. placement in resident treatment/intensive nonresidential treatment/intensive substance abuse or non-State group home	
4. restitution up to \$500	3. intensive probation	
5. fine	4. supervised day program	
6. community service up to 100 hours	5. regimented training program	
7. victim-offender reconciliation program	6. house arrest	
8. probation	7. suspend disposition with conditions	
9. driver's license not issued	8. detention up to 14 24-hour periods	
10. curfew	9. residential placement in a State multipurpose group home	
11. not associate with persons/places	10. restitution more than \$500	
12. intermittent detention up to 5 24-hour periods	11. community service up to 200 hours	
13. wilderness program	*court may impose a Level 3 disposition if the juvenile has previously received a Level 3 disposition in a prior juvenile action	