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JUVENILE LAW UPDATE

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Child's Guardian ad Litem

- The trial court did not err in conducting a termination of parental rights hearing when the child's guardian ad litem was not present.

In re J.H.K., 365 N.C. 171, 711 S.E.2d 118 (June 16, 2011).
http://appellate.nccourts.org/opinions/?c=1&pdf=MjAxMS8zNjlQQTEwLTEucGRm
Facts: DSS filed a petition to terminate respondent-father's rights when the children had been in foster care for 2 ½ years, based on repeated failure to make sustained progress in dealing with substance abuse issues. The children's GAL filed a two-page report with the court but did not attend the hearings, but the attorney advocate did attend. The court adjudicated the neglect and dependency grounds and terminated respondent's rights. The court of appeals held that it was error for the trial court to conduct the termination hearing without the presence of the children's GAL, interpreting the Juvenile Code to require the GAL's presence in order for the juvenile to be properly "represented." The court presumed prejudice and reversed and remanded.
Held: Reversed and remanded. After reviewing the relevant statutes – G.S. 7B-601, 7B-1108, and 7B-1200 – the N.C. Supreme Court

1. noted that the duties of the GAL and the attorney advocate are the duties of the GAL program, as set out in G.S. 7B-601.
2. pointed out that an attorney may serve as both the child's GAL and the attorney advocate.
3. characterized the GAL program as participants working as a team to represent a child.
4. pointed out the extent to which a GAL's role involves out-of-court activities.
5. rejected the notion that the General Assembly's use of the word "represented" was intended to require the GAL to appear at every hearing, "unless the attorney advocate or the trial court deems the GAL's presence necessary to protect the minor's best interests."

- A GAL Program staff member may be appointed and serve as a child's guardian ad litem.
- Absence of the child's guardian ad litem from the adjudicatory and dispositional hearings was not error when the record showed that the Program adequately represented the child.

In re A.N.L., __ N.C. App. __, 714 S.E.2d 189 (July 5, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS0xOC0xLnBkZg==
Facts: DSS filed a petition alleging that the child was abused, neglected, and dependent, and the following day respondent signed a "memorandum of consent" agreeing to placement of the child with DSS. Eight days later the court appointed a GAL Program staff member as guardian ad litem and an attorney as attorney advocate for the child. The trial court adjudicated the child abused and neglected and continued custody with DSS and placement with respondent's mother, after a hearing at which the attorney advocate questioned witnesses and concurred in DSS's recommendations, but at which the GAL was not present.
Held: Affirmed.

1. Appointment of a GAL Program staff member as the child's GAL was not error and was consistent with statutory requirements.
2. The court did not err in conducting hearings without the child's GAL being present, where the record showed that the Program adequately represented the child. [Citing *In re J.H.K.*]

Abuse, Neglect, Dependency

- Neglect. Findings about a physical altercation initiated by respondent while holding an infant were sufficient to support the adjudication of abuse and neglect.

In re A.N.L., __ N.C. App. __, 714 S.E.2d 189 (July 5, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS0xOC0xLnBkZg==
Facts: Respondent mother and her boyfriend had a physical altercation, initiated by respondent, while respondent was holding the one-month-old child. Respondent fell while holding the child and was beaten repeatedly by her boyfriend. When law enforcement arrived, she did not disclose that the boyfriend had beaten her. The child was not injured, but respondent suffered "knots and bruises." DSS filed a petition alleging that the child was abused, neglected, and dependent. The court adjudicated the child abused and neglected and continued custody with DSS and placement with respondent's mother.
Held: Affirmed.
Evidence supported the findings respondent challenged, and the findings supported the conclusion that the child was abused and neglected, where respondent created a substantial risk of serious physical injury to the child and failed to report the incident to law enforcement.

- Disposition: custody and physical placement. The court's approval of the mother's placement of the children with a relative, without awarding custody to the relative or to DSS, was not an abuse of discretion.

In re D.L., __ N.C. App. __, __ S.E.2d __ (September 20, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS0yNTYtMS5wZGY=
Facts: DSS filed a petition alleging neglect but did not seek nonsecure custody because the children were safe in a kinship care placement. The children's fathers were served but did not appear. The mother stipulated to the facts, and the court entered a consent order adjudicating neglect. At disposition, the court rejected the guardian ad litem's request that custody be given to the relative or to DSS, and instead "sanctioned" the continued placement of the children with the relative and ordered the mother to execute a power of attorney to authorize the relative to obtain medical, dental, and other services for the children. The guardian ad litem appealed.
Held: *Affirmed.*
The trial court's order was authorized by law and was not an abuse of discretion.
1. The court rejected the argument that the disposition was not authorized by the Juvenile Code, because custody was left with the mother, which is an authorized disposition.
2. The court distinguished *In re H.S.F.*, 177 N.C. App. 193 (2006), which reversed an order that gave joint legal custody to the parents, primary physical custody to the mother, and primary placement with the grandfather – holding that the statute does not allow the court to grant physical custody to a parent but order physical placement with someone else. Unlike *H.S.F.*, in this case the court did not order physical placement of the children with the relative, but merely approved the mother's decision about where the children should be placed.

- Ceasing efforts. Ceasing reunification efforts without making one of the prerequisite ultimate findings required by G.S. 7B-507(b) is reversible error.
- Effect of reversal on termination order. Reversal of the order ceasing reunification efforts required reversal of the order terminating parental rights with which it was appealed.

In re I.R.C., __ N.C. App. __, __ S.E.2d __ (August 2, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS05Ny0xLnBkZg==
Facts: In November, 2008, the child was adjudicated neglected and dependent after respondent mother left her repeatedly with various people, left her alone at times, and did not comply with safety plans. After a permanency planning hearing in March, 2010, the court found that respondent had failed to attend counseling sessions and to provide proof of attending Al-Anon meetings, and had admitted taking prescription drugs that were not hers. The court also found that the child disclosed that she had been sexually abused by her father and that the child was receiving tutoring from her foster parents and attending therapy. The court ordered that the permanent plan be changed to adoption, that DSS cease reunification efforts, and that DSS file a petition to terminate respondent's rights. Respondent filed a "Notice to Preserve Right to Appeal" from the order. DSS filed a termination petition and an order terminating respondent's rights was entered in November, 2010. Respondent appealed both orders.
Held: Reversed and remanded.

1. The court of appeals considered only the permanency planning order that ceased reunification efforts, which respondent could not appeal when it was entered but had preserved the right to appeal as provided in G.S. 7B-1001(a)(5).
2. The trial court made findings of fact about respondent's failure to complete a case plan, but did not link those findings to an ultimate finding that further reunification efforts would be futile or would be inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time. [G.S. 7B-507(b)(1)] Ceasing reunification efforts without that ultimate finding – or a finding of one of the other conditions set out in G.S. 7B-507(b) – is error. (The court stated that if the trial court had included one of those findings as a conclusion of law, it would have affirmed.)
3. The court of appeals will not infer from other findings that reunification efforts would be futile or inconsistent with the juvenile's health, safety, and need for a safe, permanent home within a reasonable period of time.
4. G.S. 7B-1001(a)(5) does not specify what should occur when an order ceasing reunification efforts and an order terminating parental rights are appealed together. Here, the appellate court treated the reversal of the order ceasing reunification efforts as requiring reversal of the order terminating parental rights and remanded "for further proceedings." It is not altogether clear what those further proceedings should look like.

Termination of Parental Rights

- Abandonment. Evidence and findings were sufficient to support adjudication of willful abandonment as a ground for termination of parental rights.
- Multiple grounds. The appellate court is not required to review all adjudicated grounds after affirming one.

In re C.I.M., __ N.C. App. __, __ S.E.2d __ (August 2, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMS0yMjMtMS5wZGY=
Facts: The four children were adjudicated neglected and dependent in October 2009 (based on petitions filed in May 2009) and placed in DSS custody. At a permanency planning hearing in July, 2010, the court found that respondent father had failed to comply with the court's order that he complete a GAINS assessment and psychological evaluation, attend parenting classes and anger management counseling, submit to random drug screens, and pay child support. DSS filed a petition to terminate respondent's rights, alleging five different grounds. The court adjudicated four of the grounds, including willful abandonment, and terminated respondent's rights.
Held: Affirmed.

1. The court of appeals reviewed only the abandonment ground and held that the evidence supported the findings and the findings supported the conclusion that respondent had willfully abandoned the children for six months preceding the filing of the petition.
2. The court rejected respondent's argument that the appellate court was required to review all of the adjudicated grounds and, if any of them were not upheld, remand the case for a new disposition hearing. The court reiterated that adjudication of any one ground is sufficient to terminate a parent's rights.
3. After reviewing the trial court's findings, the court of appeals held that the trial court had considered the factors set out in G.S. 7B-1110(a)(1) – (6). (Note: Effective October 1, 2011, Section 16 of S.L. 2011-295 rewrites G.S. 7B-1110(a) to require the court, in addition to considering the statutory criteria that are relevant, to make written findings about them.)

- Neglect ground. When respondent made progress in substance abuse treatment only when incarcerated or in a residential program, the evidence supported the finding of a reasonable probability of a repetition of neglect.

In re J.H.K., __ N.C. App. __, __ S.E.2d __ (September 6, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMi0yLnBkZg==
Facts: The trial court terminated respondent's rights after adjudicating the neglect and dependency grounds. In an earlier appeal, the court of appeals reversed because the children's guardian ad litem was not present at the hearing. The supreme court reversed and remanded for consideration of other issues in the case, which are the subject of this opinion.

The children were adjudicated neglected and dependent based on the parents' substance abuse problems and the unsanitary and dangerous conditions in the home. At the time of the termination hearing the children had been in foster care for two and a half years. While they were in foster care, respondent father participated in a residential treatment program and later in a prison program while he was incarcerated for violating probation. When he left the treatment program and when he was released from prison he relapsed, stopped staying in touch with DSS,

did not visit the children, and did not follow his case plan. At the time of the hearing respondent was incarcerated again, had completed the New Directions program, and was working on his substance abuse and other issues.
Held: Affirmed.
These and other findings supported the trial court's conclusion that the neglect ground existed. In addition, the trial court did not abuse its discretion in terminating respondent's rights.

Cases Pending Review by the N.C. Supreme Court

Filing termination action during an appeal – review pending

M.I.W., ___ N.C. App. ___, 708 S.E.2d 216 (February 1, 2011) (*unpublished*), *cert. granted*, ___ N.C. ___, 710 S.E.2d 5 (June 15, 2011) (mother's petition), ___ N.C. ___, 711 S.E.2d 434 (July 18, 2011) (father's petition).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMDU4LTEucGRm
The court of appeals affirmed an order terminating respondent's rights. The court rejected respondent's argument that the trial court lacked subject matter jurisdiction in the termination action because the motion in the cause was filed while respondent's appeal of the disposition order in the underlying case was pending.

Respondent's waiver of counsel – review pending

In re P.D.R., ___ N.C. App. ___, 713 S.E.2d 60 (June 16, 2011), *disc. rev. allowed*, ___ N.C. ___ (August 25, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xNTE5LTEucGRm
The court of appeals reversed an order terminating respondent's rights because her waiver of the right to counsel was not sufficient. The court held that the standard and procedures for allowing a respondent parent to waive the right to counsel and proceed pro se in a termination of parental rights action are the same as those set out in G.S. 15A-1242 for criminal offenses.

Delinquency

- Custodial interrogation. Age should have been considered a relevant factor in determining whether a thirteen-year-old student who was questioned at school was in custody.

J.D.B. v. North Carolina, 131 S.Ct. 2394 (June 16, 2011).
http://www.supremecourt.gov/opinions/10pdf/09-11121.pdf
Facts: The juvenile was adjudicated delinquent for felonious breaking and entering and larceny. The trial court had denied the juvenile's suppression motion, after making findings, including that the 13-year-old juvenile, a seventh grader in special education classes, was escorted by a uniformed school resource officer (SRO) from class into a conference room to be interviewed. Present were an investigator, an assistant principal, the SRO, and an intern. The door was closed but not locked. The juvenile was not given any Miranda warnings or told that he could contact his grandmother or was free to leave. The juvenile agreed to answer questions about a recent break-in. After initial denials and further questioning, the juvenile was encouraged to "do the right thing." He asked whether he would still be in trouble if he gave the items back. The investigator said it would help but that the matter was going to court and he might seek a secure custody order. The juvenile confessed. The investigator then told the juvenile that he did not have to answer questions and was free to leave. The juvenile continued to provide information and wrote a statement about his involvement. He was allowed to leave when the end-of-school bell rang, after being interviewed for 30 to 45 minutes. Based on these and other findings the trial court concluded that the juvenile was never in custody.

Both the **N.C. Court of Appeals** and the **N.C. Supreme Court** affirmed the trial court's order denying the juvenile's motion to suppress. Both courts emphasized the objective test for determining whether a person is *in custody*, i.e., "whether a reasonable person in the individual's position would have believed himself to be in custody or deprived of his freedom of action in some significant way." The supreme court declined "to extend the test for custody to include consideration of the age and academic standing of an individual subjected to questioning by police."

U.S. Supreme Court: Reversed and remanded.
The U.S. Supreme Court, by a vote of five to four, reversed and held that "so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature" of the *Miranda* custody analysis. Justice Sotomayor, writing for the Court,

- discussed other contexts in which the Court has acknowledged differences between children and adults and treated juveniles differently from adults;
- stated that considering age, with the qualifier stated in the court's holding, neither requires officers to guess nor forces them to consider "unknowable" circumstances; and
- said that courts can account for the fact that "a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go," without changing the objective nature of the custody analysis.

Dissenting, Justice Alito – joined by Chief Justice Roberts, Justice Scalia, and Justice Thomas – said that the Court's decision, by injecting a personal characteristic into the *Miranda* analysis, "diminishes the clarity and administrability" that have been the "chief justifications" for the rule.

- School search. Requiring all female students to do a "bra-lift" as part of a school-wide search for drugs was constitutionally unreasonable where there was no individualized suspicion and no indication of imminent danger.

In re T.A.S., __ N.C. App. __, 713 S.E.2d 211 (July 19, 2011) (*appeal pending*).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0yNzUtMS5wZGY=
Facts: The juvenile was a student at an alternative school to which students were assigned for a variety of disciplinary violations. Some students told the principal that pills that "would cause kids to be unsafe" were being brought into the school by other, unidentified, students and that when entering the school through metal detectors students were hiding the pills in places like shoe tongues, socks, bras, and underwear. There was no indication of the nature of the pills and no clue as to which students might be bringing them to school. The principal required all students to gather in one room, and one at a time they were taken to a classroom where they were searched by a staff member. Also present were other administrators, a school resource officer, and another (male) law enforcement officer. The students were required to empty their book bags, empty their pockets, and take off their shoes. Their jackets were searched and their socks were patted down. Each female student was required to do a "bra lift" – to untuck her shirt and shake it, and to reach under her shirt, hook a finger under the middle of her bra, and pull it away from her body. A white powder (Percocet) and drug paraphernalia were found on the juvenile. The trial court denied the juvenile's motion to suppress and the juvenile admitted the offenses, preserving her right to appeal the denial of her suppression motion.
Held: Reversed.
1. The court of appeals held that the search of the juvenile's bra was constitutionally unreasonable, where
   a. the search was part of a blanket search of the whole student body, and there was no individualized suspicion as to who might be bringing pills into the school, and
   b. there was no indication of any "particularized reason to believe" that any pills being brought into the school created an imminent danger.
2. The court noted that there was no indication that the school investigated or assessed the reliability of the students who made the report before resorting to a blanket search.
3. Although "strip search" has not been defined, the search in this case could be characterized as such even though the juvenile was not required to undress and none of her private parts were visible during the search, because "the bra-lift … was degrading, demeaning, and highly intrusive."
4. The search was unreasonably excessive in scope – "some level of individualized suspicion is required to venture beneath the outer clothing" during a search.
5. In its analysis, the court reviewed the U.S. Supreme Court's holdings in *New Jersey v. T.L.O.*, 469 U.S. 646 (1995) (articulating the standard for reasonableness of school searches) and S*afford v. Redding*, 129 S. Ct. 2633, 174 L.Ed.2d 354 (2009) (holding that a strip search of a student was constitutionally unreasonable even though the principal had a reasonable suspicion that the student was distributing drugs) and several other federal court decisions.

Dissent: Judge Steelman dissented on the bases that
- attendance at an alternative school led to a diminished privacy interest;
- the search involved minimal intrusion;
- the governmental interest was important and immediate; and
- the search was an effective means of addressing the government's concern.

- Sufficiency of petition. An allegation of larceny from a victim other than a person must include an allegation that the victim is a legal entity capable of owning property.
- Stop and frisk. An officer may not physically search a person for evidence of his identity during a *Terry* stop and frisk.

In re D.B., __ N.C. App. __, __ S.E.2d __ (August 16, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xNDc2LTEucGRm
Facts: After discovery of a break-in and theft at a golf club, an officer stopped and frisked the juvenile based on a description given by a witness who reported seeing someone running from the golf course. The juvenile refused to identify himself or respond when asked whether he had identification. The officer felt something in the juvenile's shirt pocket and, thinking it could be an identification card, removed it. The object was a credit card that had been reported stolen. The juvenile was adjudicated on three charges: (i) felony breaking and entering; (ii) felony larceny pursuant to breaking and entering; and (iii) misdemeanor possession of stolen property.
Held: Affirmed in part; vacated in part; reversed and remanded in part.
1. The petition alleging larceny from the Crossings Golf Club should have been dismissed for lack of subject matter jurisdiction because it did not allege that the club was a legal entity capable of owning property.
2. Evidence of the credit card seized from the juvenile should have been excluded because the search pursuant to which the officer found it exceeded the permissible scope of a *Terry* frisk and was unconstitutional. [*Terry v. Ohio*, 392 U.S. 1 (1968).]
   a. A frisk is limited to determining whether the person has a weapon.
   b. If a proper frisk reveals evidence of a crime or contraband, the officer may seize it. Here the 'stop and frisk' was legal, but discovery of the credit card resulted from an impermissible search.
   c. Conducting a warrantless search solely to discover a person's identity is not permitted.
3. Because the trial court's order incorrectly stated that the juvenile admitted the alleged offenses, remand to correct that part of the order was appropriate.

- Investigatory stop. Anonymous tip was insufficient to justify the investigatory stop of the juvenile, and the petition alleging resisting an officer should have been dismissed.

In re A.J. M.-B., __ N.C. App. __, 713 S.E.2d 104 (June 21, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMzUwLTEucGRm
Facts: The juvenile was taken into custody based on an anonymous tip and an investigatory stop. The anonymous call was "'two juveniles in Charlie district . . . walking, supposedly with a shotgun or a rifle' in 'an open field behind a residence.'" An officer who went to the field to investigate saw two juveniles, neither carrying firearms, who ran when he called out to them. The juvenile was adjudicated delinquent for resisting an officer.
Held: Affirmed in part; reversed in part.
The trial court should have granted the juvenile's motion to dismiss the petition alleging resisting an officer. The anonymous tip that led to the investigatory stop of the juvenile was not sufficient to support a reasonable suspicion, and the juvenile's detention and arrest were not justified.

- Assault by pointing 'gun'. For the offense of assault by pointing a gun, under G.S. 14-34, "gun" includes devices referred to as "firearms," and does not include an airsoft imitation rifle.

In re N.T., __ N.C. App. __, __ S.E.2d __ (August 2, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMjgxLTEucGRm
Facts: While another child held an "airsoft pump action imitation rifle," the juvenile pulled the trigger and a pellet hit and injured another child. The juvenile was adjudicated delinquent for assault by pointing a gun, under G.S. 14-34. The juvenile asserted on appeal that the airsoft gun, which shot plastic pellets using a pump action mechanism, was not a "gun" for purposes of G.S. 14-34. (The parties agreed that it was neither a "firearm" nor a "pistol.")
Held: Reversed.
1. The court of appeals applied "general principles of statutory construction," consulting dictionary definitions and the treatment of the term "gun" in appellate court decisions, to conclude that the term refers to "devices ordinarily understood to be 'firearms'."
2. Because the term "gun" in G.S. 14-34 is ambiguous, the "rule of lenity" requires interpreting it narrowly.

- "Dismissal" as a disposition. The trial court's "dismissal" of the case at disposition did not result in a dismissal of the underlying adjudication.

In re A.J. M.-B., __ N.C. App. __, 713 S.E.2d 104 (June 21, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMzUwLTEucGRm
Facts: After an adjudication of delinquency for resisting an officer, the juvenile was in court for disposition on that charge and for a hearing on a motion to revoke his post-release supervision from a youth development center. The court revoked post-release supervision and, "as a disposition" in the resisting an officer case, dismissed that case. The juvenile appealed.
Held: Affirmed in part; reversed in part.
1. The trial court's dismissal of the case at disposition did not have the effect of erasing the underlying adjudication. Therefore, the juvenile's appeal was properly before the court, because appealing the disposition of dismissal was the only way for the juvenile to appeal the adjudication. The juvenile had an interest in appealing the adjudication because it could affect his "delinquency history" in a subsequent proceeding.
2. The court affirmed the order revoking the juvenile's post-release supervision. Although the new adjudication was reversed, the revocation was based on other violations as well – missing school and being suspended for the remainder of the year – and was proper.

- Restitution. An order requiring a juvenile to pay restitution must include findings as to whether the requirement is in the juvenile's best interest and whether it is fair to the juvenile.

In re D.A.Q., __ N.C. App. __, __ S.E.2d __ (August 16, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMzI1LTEucGRm
Facts: The juvenile was adjudicated delinquent after admitting two counts of breaking and entering a motor vehicle. At disposition he was ordered to pay restitution. At a supplemental hearing the court set the amount of restitution at $242.58, after finding that (i) the victim had injuries in the amount of $265.00; (ii) another juvenile involved in the same incident had been ordered to pay restitution for this and other incidents and was ordered to pay only $22.52 to the victim in this case because his restitution was prorated among victims; (iii) ordering the juvenile in this case to pay the same amount as the other juvenile would be unfair to the victim; (iv) the juvenile was able to pay the amount ordered completely through a community service program; and (v) the amount was reasonable.
Held: Reversed and remanded.
1. When restitution is ordered, the record and appropriate findings must demonstrate that
   a. requiring the juvenile to pay restitution is in the juvenile's best interest, and
   b. the order to pay restitution and the amount of restitution are fair to the juvenile and reasonable.
2. In ordering a juvenile to pay restitution, compensation and fairness to the victim may not be the court's primary concern.
3. The court could not order that the juvenile and the other juvenile who participated were jointly and severally liable because the other juvenile's case was not before the court.
4. An order for joint and several liability would have meant that both juveniles were liable for the full amount and would have been a worse result for the juvenile that the amount ordered.

Case Pending Review by N.C. Supreme Court

Juvenile testifying in own delinquency case

J.R.V., ___ N.C. App. ___, 710 S.E.2d 411 (May 17, 2011), *disc. rev. allowed,* ___ *N.C.* ___ (August 25, 2011).
http://appellate.nccourts.org/opinions/?c=2&pdf=MjAxMS8xMC0xMTE2LTEucGRm
The court of appeals held that before a juvenile testifies in his or her own delinquency case, the trial court must inform the juvenile of the privilege against self-incrimination. Although that was not done in this case, the court found that the error was harmless and affirmed the adjudication.