

TUESDAY'S TIP # 21– A PICTURE IS WORTH A THOUSAND WORDS

Published 7/11/23

Situation: As you flip through the GAL court report, you see a cute picture of your client's child. Or you're flipping through the DSS court report and see pictures of how messy your client's house was when DSS removed the children.

The Problem: The adage, "A picture is worth a thousand words" is especially true in our cases. Don't let DSS and GAL literally paint the picture for the court. Use photos to your advantage! You want the court to see how happy the kids are when they're with your client.

Law: The rules of evidence apply to an adjudicatory hearing. [N.C.G.S. § 7B-804](#). At review and permanency planning hearings, the court "may consider any evidence ... that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition." [N.C.G.S. § 7B-906.1\(c\)](#).

"Any party may introduce a photograph, video tape, motion picture, X-ray or other photographic representation as substantive evidence upon laying a proper foundation and meeting other applicable evidentiary requirements. This section does not prohibit a party from introducing a photograph or other pictorial representation solely for the purpose of illustrating the testimony of a witness." [N.C.G.S. § 8-97](#).

The elements for laying a foundation for admitting a printout of a photograph taken with a phone are: 1) the photograph is relevant, 2) the witness is familiar with the scene or the people shown in the photograph, and 3) the photograph fairly and accurately shows the scene as it appeared the date the photograph was taken. [N.C. R. Evid. 1001\(3\)](#) permits a printout to be admitted as an original photograph when the picture is on a phone or computer.

Action Steps:

1. Assist your client in identifying useful photos from the past: think birthdays, holidays, family gatherings. Look through the photos with your client and decide which will be the most helpful to support your theory of the case.
2. Have your client (or a relative) take photos of your client's current visits with their child. Candid photos are especially helpful as they show the parent and child interacting. Consider a video to show how the children interact with your client and their bond.
3. If there are issues with the cleanliness of the house, have your client take photos to show progress in remedying the conditions of the home.
4. Help your client download the videos to a shareable format. Help them with printing photos from their phones (Walgreens, CVS, Walmart, Target charge a nominal fee for printing photos). IDS Policies permit reimbursement for copy costs. See [Rule III.C](#).
5. If you seek to introduce photos at an adjudication hearing, prepare your witness by laying the proper foundation for the introduction of the exhibits.

Conclusion: Don't let GAL and DSS control the image the judge has of your client. Paint the picture you want – one shows your client's improvements and bond with their child.