

TUESDAY'S TIP #5

Welcome to a new feature on our listserv – Tuesday's Tip. Each Tuesday, our office will share a tip that you can apply to your cases right now. I encourage you to save each tip in a folder so that if you're faced with the same situation in a future case, you have this handy resource available to you. These will also be available on our website as a counsel resource.

Situation: The hearing keeps getting continued.

The Problem: Crowded dockets mean that cases get continued indefinitely. Our clients take off from work and the case stalls when hearings are not being held. This creates a frustrating scenario for reunification.

Law: A court may, for good cause, continue the hearing: to receive additional evidence, reports, or assessments, or other information, or for discovery. Only extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. NCGS §§ [7B-803](#), [1109\(d\)](#). "[C]ontinuances are not favored, [and] motions to continue ought not to be granted unless the reasons therefor are fully established." *In re D.J.*, 378 N.C. 565, 2021-NCSC-105, ¶ 14, 862 S.E.2d 766. While a systemic problem of scheduling too many cases on a given day might constitute good cause for continuing a case under Rule 40(b), it is not an extraordinary circumstance warranting a continuance in a juvenile case under N.C.G.S. § [7B-803](#). Given the overall scheme of the juvenile code, which consistently requires speedy resolution of juvenile cases, it is clear that the North Carolina General Assembly did not contemplate a crowded docket as a circumstance sufficient to warrant delay. Nor does the absence of a respondent, or of a respondent's attorney at a prior hearing, justify a non-emergent continuance of a subsequent hearing." *In re R.L.*, 186 N.C. App. 529, 535 (2007).

Action Steps:

1. Object to the continuance.
2. Argue that the continuance is not for "good cause," or due to "extraordinary circumstances," and the continuance affects your client's constitutionally protected rights to due process and to the care of their children.
3. Argue for dismissal in that the petition has become "stale" in that the allegations are too removed in time.

Conclusion:

Don't let that adjudication get bumped further and further down the calendar. Force the court to hear your client's case in a timely manner. These continuances usually hurt our clients way more than they help them.

Is this something that you can implement? Feel free to email me directly with requests/suggestions for future Tuesday's Tip!