

TUESDAY'S TIP #25 - POVERTY

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Situation: In looking at all our cases, what is the common denominator? More likely than not, the common denominator is that our clients are poor.

The Problem: Clients are given a myriad of tasks to accomplish. At the end of the day, if they haven't completed them, the case frequently heads to TPR. How can we establish early on that some of the issues facing our client are due to poverty?

Law: The Juvenile Code allows the trial court to order a parent to "take appropriate steps to remedy conditions in the home that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, or caretaker." [N.C.G.S. § 7B-904\(d1\)\(3\)](#). If the court requires a parent to pay for costs, such as visitation costs, the court must make findings about the parent's ability to pay those costs. In *In re J.C.*, 365 N.C. 89, 89, 772 S.E.2d 465, 456 (2015). If the court conditions custody or placement with compliance with treatment, [N.C.G.S. § 7B-904\(c\)](#) allows the court to charge the cost of the treatment to the county if the parent is unable to pay. And while [N.C.G.S. § 7B-1111\(a\)\(2\)](#) allows a trial court to terminate a parent's rights on the basis of willfully failing to remedy the conditions that contributed to the child's removal, "No parental rights... shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty."

Action Steps:

1. Meet in person with your client and go over each step of their case plan.
2. Assess with your client what are the costs associated with each case plan requirement. Make a list of items that are free, those that require a registration fee (i.e. DV classes), and those that have on-going costs. Is there a co-pay or fee for the parenting class? For the domestic violence class? For the weekly individual therapy sessions? For a drug test? Deposit on a rental? Monthly rent? Reinstatement of driving privileges? Uniforms for a job?
3. Assess with your client how they would attend a session, class, visit. Do they need assistance with transportation? What does that look like? If bus vouchers are available in your area, do the timetables of public transportation actually work for your client?
4. Connect the information from Tuesday's Tip #8 – Cookie Cutter Plans – to the information about costs and your client's income.
5. Use the data that you have obtained to argue to the court
 - a. Your client doesn't need the service, or
 - b. Your client's services need to be prioritized, or
 - c. What financial assistance your client needs from DSS or the county to access the service.
6. If the case goes to TPR, use the data you've created to argue that N.C.G.S. § 7B-1111(a)(2) is not supported as the basis for the failure to comply is due to poverty.

Conclusion: Help your client by painting a picture to the court of what your client's life looks like in trying to get their kids back. Clearly spell out all the services your client is required to complete, how much time they take, and how much they cost.