Is There a Deadline for Ordering a Disposition in a Delinquency Case?

The short answer is no. There is no specific legal requirement to enter a disposition in a delinquency matter in a certain period of time. At the same time, the law does provide some context on moving efficiently to disposition, including the ability, in certain circumstances, to appeal an adjudication before a disposition has been entered. This blog explains that context.

What About the Six-Month Requirement?

Based on questions I have received, it seems that there is a persistent myth that the court loses jurisdiction in a delinquency case when disposition is not entered within six months of adjudication. This is not true.

It is true that among the many things the court can do at the dispositional hearing, it can "continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court." G.S. 7B-2501. The North Carolina Court of Appeals held that this six-month timeframe is not a limit on the court's jurisdiction in a delinquency matter. *In re S.S.*, 193 N.C. App. 239 (2008). Instead, "it is merely an opportunity provided families to seek non-judicial solutions to meet the needs of the juvenile, while placing an outer limit on how long the family may seek these solutions." *Id.* at 242. The court does not lose jurisdiction in the matter after this six-month period tolls.

Movement With All Possible Speed is Required

While there is no specific legal deadline for imposing a disposition, Subchapter II of Chapter 7B of the General Statutes begins by listing the purposes of the law the governs delinquency proceedings. <u>G.S. 7B-1500</u>. Those purpose include the provision of uniform procedures "that encourage the court and others involved with juvenile offenders to proceed with all possible speed in making and implementing determinations required by this Subchapter." There are not any cases that elaborate on what may or may not meet the definition of "all possible speed." However, as described below, there are some other provisions of the Juvenile Code that offer some context.

Dispositional Hearing Following Receipt of the Predisposition Report

G.S. 7B-2413 contains the most explicit statutory directive about the timing of the dispositional hearing. It states that "[t]he court shall proceed to the dispositional hearing upon receipt of the predisposition report." However, this mandate does not mean that the disposition hearing cannot

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be continued once the predisposition report is received.

Continuances are Allowed

The North Carolina Court of Appeals took up the question of continuing a dispositional hearing when the predisposition report has been received in *In re R.D.R.*, 175 N.C. App. 397 (2006). R.D.R. was adjudicated delinquent for several misdemeanor offenses. During this initial adjudication, a new petition alleging intimidation of a witness was filed. The predisposition report was ready at the conclusion of the initial adjudication and neither party requested a continuance of the dispositional hearing. However, the court continued the disposition for one week in order to resolve the new petition. The Court of Appeals held that this procedure was proper, reasoning that G.S. 7B-2406 provides authority for the court to continue a hearing for good cause. Under these circumstances, a continuance of the dispositional hearing until the new charge was resolved was reasonable so that the court could have a more comprehensive view of the interests of the juvenile and the State. The ability to continue a dispositional hearing for good cause exists despite the mandate to proceed to disposition on receipt of the predisposition report.

A continuance of a dispositional hearing on request of the juvenile for time to gather their evidence is required. G.S. 7B-2501(b) gives the juvenile an absolute right to present evidence at the dispositional hearing. The Supreme Court of North Carolina analyzed the connection between this right and a juvenile's request for a continuance to receive and present a mental health report at disposition. *In re Vinson*, 298 N.C. 640 (1979). The court held that the statute giving the juvenile a right to present evidence makes clear "the legislative intent that the dispositional hearing Must be continued for the respondent to present evidence when he requests such a continuance." *Id.* at 662.

The statutory mandates in <u>G.S. 7B-2502</u> regarding 1) the need for the court to order the Division of Juvenile Justice to make a referral for a comprehensive clinical assessment (CCA) under certain circumstances, and 2) to sometimes subsequently order a care review team, also require the court to continue disposition. For detailed information on these requirements, see my blog on <u>Legislative Changes to Required Mental Health Assessments Before Entering a Delinquency Disposition: New Provisions of G.S. 7B-2502</u>. When these statutory mandates apply, they require time between adjudication and disposition in order to 1) obtain and review a CCA and 2) sometimes to then obtain recommendations from a care review team. This is the case even if the predisposition report has already been provided to the court.

An Opportunity to Appeal Arises When Disposition is Not Entered Within 60 Days of Adjudication

The Juvenile Code offers one final parameter around the timing of disposition. Generally, the right to appeal in a delinquency proceeding is limited to final orders that include 1) an order finding no

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jurisdiction, 2) an order which in effect determines the action and prevents a judgment from which appeal might be taken, 3) an order of disposition, and 4) an order modifying custodial rights. <u>G.S. 7B-2602</u>. Based on this, appeals usually cannot be filed until a dispositional order is entered in the case. However, G.S. 7B-2602 also contains an exception to this rule when "no disposition is made within 60 days after entry of the order." When this occurs, "written notice of appeal may be given within 70 days after such entry." G.S. 7B-2602. The juvenile therefore has a ten-day window to provide notice of appeal of an adjudication order if no disposition is made within 60 days of entry of that adjudication order.

If such an appeal is filed, the district court loses jurisdiction to enter a disposition until the appeal is resolved. As the North Carolina Court of Appeals explained, "[b]ecause an appeal divests the trial court of jurisdiction over the matter, when a juvenile takes a statutory interlocutory appeal of the adjudication under section 7B-2602, the trial court is divested of jurisdiction to modify the order or proceed to disposition during the pendency of the appeal." In re J.F., N.C. App. 218, 228 (2014) (internal quotations omitted). Therefore, the trial court cannot take any action on a case if disposition is not entered within 60 days of entry of the adjudication order and the juvenile files a notice of appeal of that adjudication order. The appeal must be resolved to determine how the trial court may or may not proceed.

While there is no six-month rule related to entry of a dispositional order and jurisdiction, these other provisions provide important context. Delinquency cases are supposed to move with all possible speed and an appeal of an adjudication order is allowed if a disposition is not made within 60 days of entry of the adjudication order. At the same time, continuances of dispositional hearings are allowed when good cause is shown. Juveniles have a right to have time to gather and present their evidence for disposition and the statutory requirements regarding CCAs and care review teams may demand that there is a pause between adjudication and disposition. As with many questions in delinquency law, the short answer doesn't really answer the question. The answer here requires the balancing of these varying, and sometimes conflicting, legal requirements.

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