

# **THE APPELLATE PROCESS IN NORTH CAROLINA: WHAT HAPPENS WHEN A TPR ORDER IS APPEALED**

**(Rules cited are Rules of Appellate Procedure)**

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1. Order of district court judge terminating parental rights.
2. Notice of appeal must be given within 10 days of the “entry” of the TPR order, that is, after it is signed by the judge, filed and served on the parties. (Rule 3 and 7B-1113.)
3. Within 14 days of filing the notice of appeal, the appellant (party appealing the trial court’s decision) must arrange for a transcript of the evidence from a court reporter. The reporter has 60 days to prepare the transcript. Trial court may extend that time for an additional 30 days. (Rule 7.)
4. Appellant has 35 days after the court reporter’s delivery of the transcript to serve his proposed record on appeal on the other parties. (Rule 11.)
  - “Record on appeal” contains the relevant court documents, transcript of the evidence presented, and “assignments of error” (appellant’s reasons why the TPR order should be reversed).
5. Appellee has 21 days to object to or approve of the appellant’s proposed record on appeal. If they cannot agree, a judge will decide. (Rule 11.)
6. Record on appeal as settled by the parties or a judge must then be filed in the North Carolina Court of Appeals by the appellant within 15 days. (Rule 12.)
7. Court of Appeals prints record and returns it to the parties or, in certain cases (appeals in forms pauperis), does not print the record but notifies the parties that the record has been docketed.
8. Appellant’s brief, containing his arguments in support of his assignments of error, is due 30 days after mailing of printed record or date of docketing of record if no record printed. (Rule 13.)
9. Appellee’s brief is due 30 days after appellant’s brief is served on him. (Rule 13.) The time for filing either brief can be extended for good cause by the Court of Appeals. (Rule 27.)
10. After the briefs are received, the case is set for oral argument.
  - This usually takes 3 to 4 months.

- Often the case is ordered to be decided based on the written briefs only, without oral argument, due to the volume of cases before the Court.
  - The appellate court does not rehear testimony but only reviews the information in the record on appeal, the briefs of the attorneys, and their oral arguments, if held.
  - Case is decided by a three-judge panel. Fifteen judges comprise the Court but they divide into panels of three to hear cases.
11. Case is decided by the Court of Appeals. Copy of decision is sent to appellant and appellee.
- Usually receive court's opinion 2 to 3 months after hearing date.
  - By this time 11 to 14 months have passed from the entry of the TPR order.
12. A party disagreeing with the Court of Appeals decision can appeal to the North Carolina Supreme Court. (Rule 14.)
- Notice of appeal within 35 days after decision issued.
  - Automatic right of appeal if one of the three Court of Appeals judges dissents (disagrees with the other two judges).
  - Otherwise, it is in the discretion of the Supreme Court whether the case will be accepted. Very few are accepted.
  - If appeal is accepted by the Supreme Court, both parties file new briefs, the case is scheduled for oral argument, which is rarely waived, and then an opinion is issued. All seven Supreme Court Justices hear and decide cases.
  - From the Court of Appeals to the Supreme Court takes 6 to 8 months if the case is heard in the Supreme Court.