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NO. COA13-861  
NORTH CAROLINA COURT OF APPEALS

Filed: 17 December 2013

IN THE MATTER OF:

T.V.C.D. Rowan County  
No. 13-JT-23

Appeal by respondent-father from order entered 21 June 2013 by Judge Beth Dixon in District Court, Rowan County. Heard in the Court of Appeals 25 November 2013.

*Seth B. Weinshenker, for petitioner-appellee-mother.*

*Ryan McKaig, for respondent-appellant-father.*

STROUD, Judge.

Respondent-father appeals from an order terminating his parental rights to his daughter. Because the trial court lacked jurisdiction to enter its order, we vacate.

I. Background

Respondent-father and petitioner-mother are the parents of Tina.<sup>1</sup> On or about 25 January 2013, petitioner filed an unverified petition to terminate respondent's parental rights. On 26 March 2013, respondent filed an answer in which he

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<sup>1</sup> A pseudonym will be used to protect the identity of the minor involved.

admitted certain allegations and denied the existence of grounds for termination. On 21 June 2013, after a hearing, the trial court entered an order terminating respondent's parental rights. Respondent appealed.

## II. Verification

Respondent contends the trial court lacked subject matter jurisdiction to terminate his parental rights because the petition to terminate his parental rights was not properly verified. We agree, since this Court has stated:

A petition or motion to terminate parental rights is governed by North Carolina General Statute § 7B-1104 which provides that the petition, or motion pursuant to G.S. 7B-1102, *shall be verified* by the petitioner or movant. A violation of the verification requirement of N.C.G.S. § 7B-1104 has been held to be a jurisdictional defect *per se*. A question of jurisdiction may be addressed by this Court at any time, *sua sponte*, regardless of whether parties properly preserved it for appellate review.

In *In re Triscari Children*, the father appealed the trial court's orders which terminated his parental rights. This Court vacated the orders finding a lack of subject matter jurisdiction because the petitions to terminate parental rights were not verified. The Juvenile Code has been recodified since *In re Triscari Children*, but the North Carolina Supreme Court has determined, subsequent to the recodification, that verification of petitions is a requirement to invoke subject matter jurisdiction.

Petitioner's failure to verify the petition to terminate parental rights left

the trial court without subject matter jurisdiction. In the absence of subject matter jurisdiction, the trial court's order is void and should be vacated.

*In re C.M.H., B.N.H., S.W.A.*, 187 N.C. App. 807, 808-09, 653 S.E.2d 929, 930 (2007) (emphasis in original) (citations, quotation marks, ellipses, and brackets omitted). As the petition herein was not verified, we vacate the order terminating respondent's parental rights for lack of subject matter jurisdiction. See *id.* at 809, 653 S.E.2d at 930.

### III. Conclusion

For the foregoing reason, we vacate the order terminating respondent's parental rights.

VACATED.

Chief Judge MARTIN and Judge GEER concur.

Report per Rule 30(e).