

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e) (3) of the North Carolina Rules of Appellate Procedure.

NO. COA01-731

NORTH CAROLINA COURT OF APPEALS

Filed: 5 March 2002

IN THE MATTER OF:

Buncombe County

No. 99 J 94

CARLTON DONOVAN MONROE,
Minor Child.

Appeal by respondent from a judgment entered 21 August 2002 by Judge Shirley H. Brown in Buncombe County Superior Court. Heard in the Court of Appeals 11 February 2002.

Lisa Morrison, for Buncombe County Department of Social Services, for petitioner-appellee.

Judy N. Rudolph and Mark Dorosin, for Guardian Ad Litem, for appellee.

Michael E. Casterline, for respondent-appellant.

BIGGS, Judge.

This appeal arises out of an order terminating the parental rights of respondent, Charles Monroe, pursuant to N.C.G.S. § 7B-1111(a) (8) (1999).

Respondent asserts, for the first time on appeal, that N.C.G.S. § 7B-1111(a) (8) is unconstitutional on its face and as applied to him, under the Due Process Clause of the United States Constitution.

It is a well established rule of this Court that we will not

decide a constitutional question which was not raised or considered in the court below. *In Re Maynard*, 116 N.C. App. 616, 448 S.E.2d 871 (1994) (holding that we may not consider constitutional questions for the first time on appeal); *Kaplan v. Prolife Action League of Greensboro*, 111 N.C. App. 1, 431 S.E.2d 828, *disc. review denied*, 335 N.C. 175, 436 S.E.2d 379 (1993), *cert. denied*, *Winfield v. Kaplan*, 512 U.S. 1253, 129 L. Ed. 2d 894 (1994); *Rivenbark v. Southmark Corp.* 93 N.C. App. 414, 378 S.E.2d 196 (1989).

Thus, since respondent failed to raise the constitutionality of the statute before the trial court, he will not be allowed to raise it here. Moreover, respondent does not offer any other assignments of error. See *Koufman v. Koufman*, 330 N.C. 93, 408 S.E.2d 729 (the scope of review on appeal is limited to those issues present by assignment of error in the record on appeal).

Accordingly, this appeal is dismissed.

Dismissed.

Chief Judge EAGLES and Judge MCCULLOUGH concur.

Report per Rule 30(e).