§ 48-3-609. Challenges to validity of consent.

(a) A consent shall be void if:

(1) Before the entry of the adoption decree, the individual who executed the consent establishes by clear and convincing evidence that it was obtained by fraud or duress;

(2) The prospective adoptive parent and the individual who executed the consent mutually agree in writing to set it aside;

(3) The petition to adopt is voluntarily dismissed with prejudice; or

(4) The court dismisses the petition to adopt and no appeal has been taken, or the dismissal has been affirmed on appeal and all appeals have been exhausted.

(b) If the consent of an individual who previously had legal and physical custody of a minor becomes void under subsection (a) of this section and no grounds exist under G.S. 48-3-603 for dispensing with this individual's consent, the court shall order the return of the minor to the custody of that individual and shall dismiss any pending adoption proceeding. If the court has reasonable cause to believe that the return will be detrimental to the minor, the court shall not order the return of the minor but shall notify the county department of social services for appropriate action.

(c) If the consent of an individual who did not previously have physical custody of a minor becomes void under subsection (a) of this section and no ground exists under G.S. 48-3-603 for dispensing with this individual's consent, the court shall dismiss any pending proceeding for adoption. If return of the minor is not ordered under subsection (b) of this section, the court shall notify the county department of social services for appropriate action. (1995, c. 457, s. 2.)