

In the Interest of M.M.M.T., WL 2609965

- Issue Date: June 12, 2014
- Opinion: Barnes
- Concurring: Boggs and Branch, JJ.

Posture:

The mother of then 23-month-old M.M.M.T. appeals the juvenile court's order terminating her parental rights on the basis of insufficiency of the evidence. Upon finding that the full appellate record supports the juvenile court's order, the Court of Appeals dismissed the appeal.

Issue:

Was the juvenile court authorized to consider the mother's past conduct in determining whether the causes of deprivation were likely to continue?

Holding:

Appeal dismissed. The order granting the mother's application for discretionary appeal was vacated and her appeal dismissed after the Court of Appeals determined that the application should not have been granted.

Facts:

M.M.M.T. was born on August 11, 2011 with Xanax in her system. In lieu of removal, DFACS initially developed a safety plan with the maternal great-grandmother so that the mother could obtain services, but this failed due to the mother's continued substance abuse. On February 23, 2012, the Court issued a shelter care order placing the child in DFACS' custody based on allegations of the mother's continued substance abuse. The court later found probable cause that M.M.M.T. was deprived due to the mother's inability to independently care for the child. On March 8, 2012, the trial court entered an order finding clear and convincing evidence that M.M.M.T. was deprived because of the mother's substance abuse, inadequate housing, unstable income, lack of proper supervision, and uncontrolled diagnosis of a fainting disorder and transferred temporary custody of M.M.M.T. to DFACS. Nine months later the permanency plan was changed from reunification to reunification concurrent with adoption.

After an order extending the previous deprivation order, DFACS filed a motion for termination of parental rights. At the hearing, the evidence showed that the mother would be unable to permanently care for M.M.M.T. without a strong support system. Evidence further showed that the mother had not successfully completed substance abuse treatment, obtained treatment for her fainting disorder, obtained stable housing or employment, or pay child support as ordered. Though she had maintained her visitation schedule, the mother showed little progress toward being independent. Furthermore, the case manager testified that the child was exhibiting problematic behaviors associated with the lack of permanency in her life.

Reasoning:

Although mother was bonded with the child, the court concluded that the mother's unwillingness to make the necessary changes to parent had prolonged the child's stay in foster care when she needs permanence and stability. The evidence was sufficient to support the juvenile court's order terminating her parental rights.

Moreover, the Court of Appeals held that the application for discretionary appeal should not have been granted because the appellate record supports the order of the court below. The application had been granted without the benefit of a full appellate record, including the transcript of the termination hearing.

Synopsis of Rule of Law:

(1) On appeal from a termination order, this court viewed the evidence in the light most favorable to the appellee and determined whether any rational trier of fact could have found by clear and convincing evidence that the natural parent's rights to custody have been lost. (2) This court does not weigh the evidence or determine the credibility of the witnesses but defers to the trial court's fact-finding and affirm unless the evidence fails to satisfy the appellate standard of review.