

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

S.J, mother of A.C. and A.W., each a minor child,

Petitioner,

v.

DEPARTMENT OF CHILDREN AND FAMILIES,

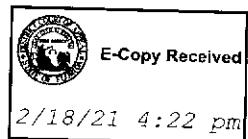
Respondent.

On Petition for a Writ of Certiorari to
the Supreme Court of the State of Florida

APPENDIX
PETITION FOR A WRIT OF CERTIORARI

ROBERT J. SLAMA
Counsel of Record
ROBERT J. SLAMA, P.A.
6817 Southpoint Parkway, Suite 2504
Jacksonville, Florida 32216
Tel: (904) 296-1050
Fax:(904) 296-1844
Email: support@RobertJSlamaPA.com

Counsel for the Petitioner



Supreme Court of Florida

THURSDAY, FEBRUARY 18, 2021

CASE NO.: SC21-255

Lower Tribunal No(s).:

1D20-1243; 162017DP000128AXXXMA; 162017DP000128BXXXMA

S.J., MOTHER OF A.C. AND A.W., vs. DEPARTMENT OF CHILDREN
EACH A MINOR CHILD AND FAMILIES

Petitioner(s)

Respondent(s)

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

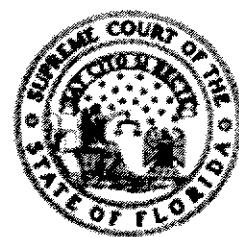
No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



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Served:

SARA E. GOLDFARB
WARD L. METZGER
ROBERT JOHN SLAMA
THOMASINA MOORE

1.

CASE NO.: SC21-255

Page Two

GUARDIAN AD LITEM PROGRAM
HON. JODY PHILLIPS, CLERK
HON. KRISTINA SAMUELS, CLERK
HON. MALLORY DURDEN COOPER, JUDGE

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

October 26, 2020

CASE NO.: 1D20-1243
L.T. No.: 16-2017-DP-000128

S. J., mother of A.C. and A.W, each v.

Department of Children and
Families

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

DISMISSED. *N.S.H. v. Dep't of Children & Family Servs.*, 843 So. 2d 898 (Fla. 2003) (stating that dismissal is appropriate when appellant fails to timely prosecute an appeal from an order terminating parental rights).

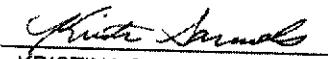
I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

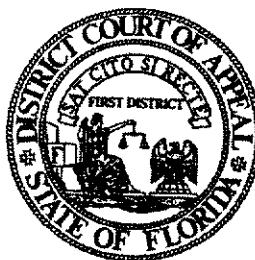
Served:

Amanda VanLanningham
Sara Goldfarb
Thomasina F. Moore
S. J.

Robert J. Slama
Shannon L. Shaw
Ward L. Metzger
Hon. Ronnie Fussell, Clerk

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KRISTINA SAMUELS, CLERK



2

Respectfully submitted,

**ROBERT J. SLAMA, P.A.
6817 Southpoint Parkway Suite 2504
JACKSONVILLE, FL 32216**

BY: /S/ ROBERT J. SLAMA, ESQ.
ROBERT J. SLAMA, ESQUIRE
FLA. BAR NO.: **919969**
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support@RobertJSlamaPA.com
Attorney for the Appellant

**IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA, FIRST DISTRICT**

1ST DCA CASE NO.:1D20-1243
L.T. CASE NO. 16-2017-DP-000128

**S. J., mother of A.C. and A.W,
each a minor child,**

Appellant,

v.

Department of Children and Families,

Appellee.

APPELLANT'S MOTION FOR REHEARING¹

Comes Now, Counsel for the Appellant, STEPHANIE JONES, who files this Motion for Rehearing on the Appellant's Motion to Set Aside and Vacate the Dismissal and says:

1. This appeal follows the Trial Court's ruling on a Termination of Parental Rights, which after trial on the allegations set forth in the petition, resulted in a termination as to both minor children. The nisi prius court denied the Appellant – under any standard of fundamental fairness – the opportunity to be heard and to address the allegations leading to the advisory and subsequent termination. The

¹ The Appellant's case was dismissed for lack of prosecution. The Appellant's Counsel filed a notice of appearance and the next business day the case was dismissed on November 25, 2020.

Appellant's prior counsel on appeal withdrew leaving the Appellant with very limited time and resources to address the Court's deficiencies.

2. First, she tried to handle the matter pro se and then sought to interview counsel and decided to utilize trial counsel who had the best knowledge of the record and the issues.

3. The Court's dismissal was for failure to address the deficiencies – which would have been addressed following Counsel's appearance. While the deficiencies can be corrected with an additional and final extension of time.

4. Given the issues in this case, a termination of parental rights requires a fair opportunity to contest the trial court's determination. This appellate court is the next level of review and an important aspect of the overall termination proceedings. In fact, the appellate court's review is necessary to ensure that the nisi prius court did not remove children from the parent without ensuring the fundamental fairness and due process to confront the State of Florida. To do otherwise is to ensure that the State of Florida may remove children, terminate rights, participate in fraudulent conduct directly or through its agents, and then as the Appellant seeks to obtain Counsel following withdrawal by previous counsel she is dismissed.

5. The Appellant should have one full and fair opportunity to file the brief on appeal and have the case decided on the merits.

6. The Courts have as a cornerstone to our Constitutional framework that “it is well settled that an order adjudicating issues not presented by the pleadings, noticed to the parties, or litigated below denies fundamental due process.” *Neumann v. Neumann*, 857 So. 2d 372, 373 (Fla. 1st DCA 2003); accord *Mizrahi v. Mizrahi*, 867 So. 2d 1211, 1213 (Fla. 3d DCA 2004) (“Due process protections prevent a trial court from deciding matters not noticed for hearing and not the subject of appropriate pleadings.”). In this case, the Appellant Mother sought to address with the trial court the actions by the maternal grandmother, Phyllis Jones, the undue influence placed upon the minor child A.C., and the attempts to address with the therapist(s) this aspect of the child’s allegations. During trial, Dr. Larry Neighdeigh, Ph.d., made clear as did the other therapists that they did not know about the undue influence placed upon the child. They only treated the Mother’s allegations as being defensive and not accepting responsibility. Dr. Neighdeigh testified that if those allegations are true this mother’s rights should not be terminated.

7. The Mother was given no full and fair opportunity to address the undue influence and ensuing fraudulent testimony by the Department of Children and Families, Phyllis Jones, witnesses from the agency supervising the family, and the testimony of the primary witness for the Jewish Family Services.

8. All of these matters have to be addressed on appeal and the review is necessary to preserve the integrity and the fundamental fairness of the nisi prius tribunal.

9. In this case, the Mother/Appellant has had limited resources and if the mandate of justice enshrined on the Supreme Court of the United States “equal justice under the law” is to have any meaning it must apply here. A mother with marginal resources trying to comply with a court’s order and to either represent herself or to come up with resources to address the State’s removal of the children from her home.

10. With Counsel’s assistance, the Appellant can provide the brief and exhibits to the Court to perform the necessary review.

WHEREFORE, Counsel respectfully requests that the Court will grant rehearing and reinstate the case and set aside the dismissal, permit Counsel 21 days to provide the brief on appeal, and cure any deficiencies and return the case to the normal order.

Dated: this 10st day of December, 2020.

/s/ Robert J. Slama

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copy of the foregoing has been furnished to: **Mr. Ward Metzger, Esquire (DCF)** and all Counsel of Record via Florida ePortal and according to the notice of designation of email for filing on this 10th day of December, 2020.

RESPECTFULLY SUBMITTED
ROBERT J. SLAMA, P.A.

/s/ Robert J. Slama

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**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151**

January 20, 2021

CORRECTED

**CASE NO.: 1D20-1243
L.T. No.: 16-2017-DP-000128**

S. J., mother of A.C. and A.W, each v.

Department of Children and
Families

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion for rehearing, filed December 10, 2020, is denied. No further motions will be considered in this case.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

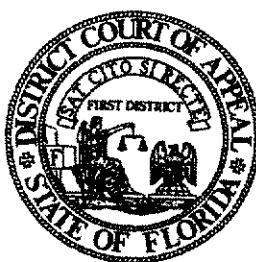
Served:

Amanda VanLanningham
Sara Goldfarb
Thomasina F. Moore
S. J.

Robert J. Slama
Shannon L. Shaw
Ward L. Metzger
Hon. Jody Phillips, Clerk

co


KRISTINA SAMUELS, CLERK



4.

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

November 25, 2020

CASE NO.: 1D20-1243
L.T. No.: 16-2017-DP-000128

S. J., mother of A.C. and A.W, each v.

Department of Children and
Families

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion, filed November 5, 2020, is denied for failure to cure the deficiency for which the appeal was dismissed.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

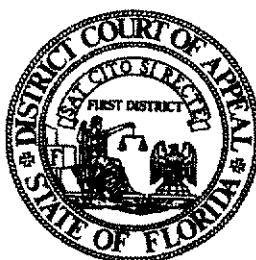
Served:

Amanda VanLanningham
Sara Goldfarb
Thomasina F. Moore
S. J.

Robert J. Slama
Shannon L. Shaw
Ward L. Metzger

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Kristina Samuels
KRISTINA SAMUELS, CLERK



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**IN THE FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

**CASE NO. 1D20-1243-OAXXX-MA
L.T. CASE NO.: 16-2017-DP-000128**

S.J, mother of A.C. and A.W., each a minor child,

Appellant,

v.

DEPARTMENT OF CHILDREN AND FAMILIES,

Appellee.

**APPELLANT'S MOTION TO VACATE AND REINSTATE THE APPEAL
AND FOR REHEARING**

ON APPEAL FROM A NONFINAL ORDER OF THE
FOURTH JUDICIAL CIRCUIT, IN AND FOR DUVAL COUNTY, FLORIDA

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**MOTION TO VACATE DISMISSAL AND TO REINSTATE APPEAL
AND/OR FOR REHEARING PURSUANT TO RULE 9.330**

Appellant S.J. (“Mother”) files this Motion to Vacate the Dismissal of the Appeal and for Rehearing after invoking the original jurisdiction of the district court of appeals to remedy the termination of her parental rights following a trial terminating her parental rights, and says:

1. The Appellant was represented by Brian J. Cabrey, Esquire who was seeking leave to withdraw as counsel, which was granted on September 16, 2020. In the same Order, the Appellant was then representing herself in proper person upon Counsel’s withdrawal. In that Court Order, it advised Appellant to timely file an initial brief and she may serve an initial brief within 20 days of the notice of compliance filed by her Counsel. There was a citation to a rule without any other dates mentioned.
2. The Appellant had sought to represent herself *pro se* following the withdrawal of Counsel due to a lack of funds, and after attempting to do so, sought to raise funds to hire a private attorney. She sought the assistance of various local law firms and interviewed other counsel about her case. This was a voluminous record and the transcript, motions, and court orders were lengthy for a firm to review.

3. The Appellant had then began speaking to Counsel's legal assistant and later hired the Law Firm of Robert J. Slama, P.A. and previous trial counsel due to the familiarity with the record and the issues raised before the *nisi prius* court.

4. The Appellant had sought earnestly to comply with the Court's Order and was diligently and in good faith working to prosecute the appeal.

5. Prior to Counsel filing the Notice of Appeal, the Appellant had contacted Counsel's legal assistant and texted a copy of the September 16th Order, which was sent in PDF format. Counsel's legal assistant could not open the PDF and did not realize that the document was related to this case and that there was an Order requiring compliance for filing the initial brief (upon submission of the record).

6. The Appellant had later sent the text message again to the Legal Assistant, Lorrie Bowman, and this time sent it as a picture. The picture of the Order was provided to Counsel on October 23, 2020, just prior to the Notice of Appearance being filed in the appeal.

7. The Appellant believed that the Order was opened by the legal assistant and the information communicated to Counsel prior to appearing as Counsel of Record. However, due to the "mistake or inadvertence," Counsel's legal assistant did not provide the PDF and its contents to Counsel. As a result, the

Appellant did not understand the Order's import as to the looming deadline. *See* attached Statement of Legal Assistant Lorrie Bowman.

8. Likewise, Counsel's legal assistant did not inquire as to the PDF that was unopened, which contained the stated deadlines for filing the initial brief or be subject to dismissal. With this information, Counsel could have pursued other avenues with the Appellant prior to appearing as Counsel of Record.

9. Counsel filed the Notice of Appearance on October 23rd and the appeal was dismissed on October 26th for the failure to prosecute by filing the initial brief.

10. The Florida Supreme Court in *N.S.H. v. Dep't of Children & Family Services*, 843 So. 2d 898 (Fla. 2003) held that the *Anders* procedures do not apply in termination proceedings. In that case, Justice Lewis in his concurring opinion correctly noted the issues which do arise in a proceeding such as this where by its very nature the power of the state is directed against the "poor, uneducated, or members of minority groups, such proceedings are often vulnerable to judgments based on culture or class bias." *See Santosky*, 455 U.S. at 763.

11. That is precisely what has occurred in this case. The Appellant has been fighting this case largely alone and without *any assistance* by trial counsel (prior to my participation in the case) and on appeal it was *déjà vu* all over again.

The previous Appellate counsel apparently certified to the Court of Appeals that there were no meritorious issues to raise on appeal.¹ Following that pronouncement, the Appellant Mother began once again trying to represent herself, look for funds, obtain Counsel, interview other lawyers, and ultimately returned to Trial Counsel to assist her in this appeal. She had never sought to either abandon the appeal or disregard any timeframe for performance as she understood the Order.

12. As Justice Lewis pronounced, “[b]y its very nature, a legal proceeding in which the state seeks to terminate the parental rights of one of its citizens is a direct governmental interference with the fundamental right to be involved with the life of one's child. Thus, the liberty, privacy, and due process interests protected by the United States and Florida constitutions are implicated at every stage during the termination process. Indeed, the state action at issue in the instant case could, and often does, have the ultimate effect of completely severing the constitutionally protected relationship between a parent and child.

13. Justice Lewis continued: “[b]ecause the interest at stake in parental rights termination proceedings is a fundamental one, heightened procedural safeguards are necessary to ensure that the essential right is not abridged. The

¹ When Counsel appeared at the trial court, the prior legal counsel had not taken one deposition or had advanced her concerns over the State's interaction with the minor daughter. Counsel had to prepare this case at the advisory for trial donating many hours pro bono for this Mother who was being targeted as Justice Lewis had so eloquently articulated would happen.

Supreme Court has stated, "The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be 'condemned to suffer grievous loss.'" *Santosky v. Kramer*, 455 U.S. 745, 758, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982) (quoting *Goldberg v. Kelly*, 397 U.S. 254, 262-63, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970)). Because parental rights termination proceedings "seek not merely to infringe [upon the] fundamental liberty interest, but to end it ... few forms of state action are both so severe and so irreversible." *Id.* at 759, 102 S. Ct. 1388; *see also Y.H. v. F.L.H.*, 784 So. 2d 565, 569 (Fla. 1st DCA 2001) (noting that after termination, the parent "stands as a stranger ... and the fact that he is the child's biological father is now legally irrelevant") (quoting *Stefanos v. Rivera-Berrios*, 673 So. 2d 12, 14 (Fla.1996)). Therefore, in my view there is no reason not to afford available procedural protections to safeguard against the rendering of mistaken final judgment.

14. The Supreme Court has noted that "numerous factors combine to magnify the risk of *erroneous fact finding*" in termination proceedings. *Santosky*, 455 U.S. at 762, 102 S. Ct. 1388. Additionally, the Supreme Court has correctly noted:

Permanent neglect proceedings employ imprecise substantive standards that leave determinations usually open to the subjective values of the judge. In appraising the nature and quality of a complex series of encounters among the agency, parents, and the child, the court possesses unusual

discretion to underweigh probative facts that might favor the parent Given the weight of the private interests at stake, the societal cost of even occasional error is sizable. *Id.* at 762-6, 102 S. Ct. 1388 (citations omitted); *see also Lassiter v. Dep't of Social Servs.*, 452 U.S. 18, 30, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981). It is plain that parental rights termination proceedings require an extremely subjective evaluation of a very complex relationship between multiple entities and interests. In fact, at the time termination proceedings are commenced, the proceedings involve at a minimum the judiciary, the parent or parents, the child, and a custodial government agency. Each of these participants may have significantly divergent interests, none of which can always be evaluated objectively. Moreover, I cannot close my eyes to the fact that the circumstances at issue in termination proceedings could be impacted by insidious bias.

15. The Appellant has raised at the trial court numerous meritorious issues – which include substantive and procedural due process -- which are set forth in the Motion for Rehearing, Amended Motion for Rehearing, the Motion for New Trial, the Court's delay in providing a final judgment which includes factual discrepancies and the lack of factual recall and inconsistencies by the Court when making factual findings. *Dept't of Law Enf't v. Real Prop.*, 588 So. 2d 957, 960 (Fla. 1991).

16. There is “good cause” for the Court to reinstate the dismissal and permit the Appellant’s case to move forward to a conclusion on the merits. The appellate court has broad discretion to reinstate a dismissed appeal. *Mitchell v. State*, 294 So.2d 395, 397 (Fla. 1st DCA 1974). The delay was not based upon a disregard for the Court’s Order, but instead the Mother’s efforts to secure Counsel to prosecute the appeal with limited resources. This took longer to secure than

Appellant expected, and during the time period the Appellant was actively looking to secure legal Counsel and to advance the case. In addition, during this time the PDF file sent to the legal assistant was unopened on the assistant's cell phone, and Counsel was unaware of the time for Appellant's required performance. As such, she could have acted *pro se* to file a document with the Court of Appeals *prior* to the due date to seek additional time and avoid a dismissal. In the alternative, Counsel could have appeared earlier to file same.

17. As Florida courts have adhered to and explained in *Sly*, “Florida has a longstanding policy in favor of resolving civil disputes on the merits,’ “and rule 1.070(j) is to “serve as ‘a case management tool’ and not as ‘a severe sanction.’ “27 So.3d at 87–88 (quoting *Chaffin*, 793 So.2d at 104; *Brown*, 884 So.2d at 1067). The same rationale applies to the dismissal for failure to prosecute. The public policy is especially applicable in cases involving the “best interest” of a minor child, as the case at bar does.

18. More importantly, the Appellant has the Florida Constitution guaranteed right to access to the courts. The Florida Courts have adhered to the constitutional mandate that the courts in this state shall be “open to every person for the redress of any injury, and justice shall be administered without sale, denial or delay.” Further, the guaranteed access to the Court must not only be available, but it must also be *meaningful*. Any dispute as to the existence of this access is to

be liberally construed in favor of the right. *Kinney Sys., Inc. v. Continental Ins. Co.*, 674 So. 2d 86, 92 (Fla. 1996). *Traylor v. State*, 596 So.2d 957, 985 (Fla. 1992). *Hoffman v. Ouellette*, 798 So. 2d 42, 45 (Fla. 4th DCA 2001). *U.S.B. Acquisition v. U.S. Block Corp.*, 564 So. 2d 221, 222 (Fla. 4th DCA 1990).

19. In summary, the Appellant is requesting the Court to reinstate the appeal and to permit Counsel to file the Appellant's initial brief on appeal within 20 days.

20. The interests of justice should permit the reinstatement due to "good cause" shown, to ensure access to the courts, and to permit a resolution on the merits of the appeal with a strong public policy favoring consideration of an appeal involving the best interest of the minor child. The Appellant has litigated and devoted two and a half years to fighting for her children and this final chapter should be permitted after briefing and oral argument.

CERTIFICATE OF SERVICE

I CERTIFY that on this 5th day of November, 2020 a true and correct copy of the foregoing Motion to Reinstate and Vacate the Dismissal were filed electronically with the Clerk of Court for the First District Court of Appeals through the Florida Courts e-filing Portal, which shall serve an electronic copy by e-mail on counsel of record on the attached service list; and were served in paper

form via first-class mail on counsel of record on the attached service list at the addresses indicated; in compliance with Florida rule of Judicial Administration 2.516(b) and Florida Rules of Appellate Procedure 9.420(c).

SERVICE LIST

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BY: /s/ ROBERT J. SLAMA, Esq.
Attorney

STATEMENT OF LORRIE BOWMAN LEGAL ASSISTANT

The Declarant, LORRIE BOWMAN, after being duly sworn provides the following statement:

1. I am the legal assistant for the Law Office of Robert J. Slama, P.A., and I was assisting in the handling of Stephanie Jones' appeal.

2. Ms Jones was in contact with me regarding efforts to obtain counsel, and to handle the appeal after the withdrawal of her previous counsel. She was trying to do the appeal by herself, and realized that it was more than she could do *pro se*.

3. She began to contact other people for funds to help her to retain an attorney and began interviewing and looking for a firm to assist. As the Court noted in the NSH opinion, the interest at stake in parental rights terminations proceedings is a fundamental one and given the weight of the private interests at stake, the societal cost of even occasional error is sizable. She was never during my discussions with her abandoning her appeal, but instead working to obtain and file a brief to address the relief due to the unique circumstances of this case.

4. Given the time available, Ms. Jones realized that my firm had the most knowledge of the record, the testimony, and the motions filed and could provide a more economical review of the file and to file an appeal. My firm also had knowledge of the delay in the Court's order and the inconsistencies in the testimony and the final judgment terminating parental rights. In October the Firm also had an extensive litigation schedule in cases previously set for hearing including depositions in a homicide case, guardianship, and other state and federal civil matters.

5. Ms. Jones contacted me and wanted to retain the firm in October. When she did, she had texted me the Order on my cell phone (personal) which is attached as **Exhibit A** and I could not open the document on the cell phone at that time in the PDF format. I did not know what the PDF

was regarding and apparently it was the September Order that set forth the dates for the Appellant to provide the Court with a response or face dismissal of the case for lack of prosecution.

6. I did not know that PDF sent to my cell phone was an Order related to her appeal. She would send me --- as others do --- various messages and texts with some are PDF's which I cannot open. Ms. Jones believed that I had opened it and was aware of the dates set forth in the Order dated September 16, 2020.

7. During a subsequent conversation, I had asked Ms. Jones about the PDF she had sent, and asked her to resend it because I could not open it. On October 23, 2020, approximately 10-12 days later, Ms. Jones resent the Order via text, but this time as a picture and I could see the dates and provided those to the attorney for review. Mr. Slama filed the Notice of Appearance in due course and realized that the Court had stated that the Appellant *may* file an appeal within 20 days or October 13, 2020 -- but it did not state *must file* on or before a certain date. Ms. Jones saw the same language in the Order and did not understand that the case would be in danger of imminent dismissal but instead to obtain counsel and to have the initial brief on appeal filed soon or it would be subject to dismissal.

8. This would have been averted if I had been able to open the document PDF sent to my phone. Due to my mistake and inadvertence, Mr. Slama did not know that there was an Order entered on September 16th prior to his representation that Ms. Jones was to file a brief within 20 days from the date of the Order following the prior attorney's compliance on September 23, 2020.

9. Ms. Jones was in contact with me during the period prior to being retained in October and was keeping me apprised of her efforts to try to do the appeal alone, contacting other law firms, diligently pursuing her compliance with the Court's Order, and to meet the deadlines set by the Court. She has always been diligent with responding to any and all inquiries from our office and

providing me with information. This time however there was a mistake made by me in the 10 to 12 days prior to October 23rd leading her to believe I knew of the dates when I had not opened the PDF on my cell phone.

10. I have been diagnosed with cancer and have been treating with Mayo and undergoing chemotherapy and have been out of the office for two days each week. Otherwise, in the 10 to 12 days prior I would have been in touch sooner with Ms. Jones to address the PDF and its content.

11. Ms. Jones has always been diligent in my dealings with her and worked to pursue every deadline and to comply with every court order before the trial court. I was working with Ms. Jones in the trial case and she was also very diligent in meeting every timeframe and request made by the office for information. Because of the time constraints and the counseling schedule during the TPR, she was unable to work fulltime and her only issue was money and needing assistance.

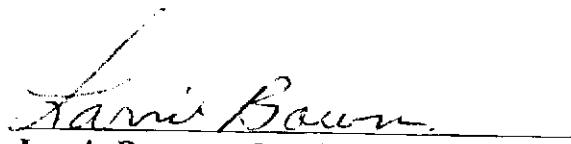
12. In this case, I spoke to her frequently and had not asked and followed up on the text message sent to my phone in the 10-12 days prior to receiving the October 23rd picture of the Order, which would have alerted me to know that there was a time frame during the time we were not counsel of record. Had I realized this timeframe, I would have immediately alerted the attorney as to the dates, and calendared the time.

13. When I learned of the Order via text to my cell phone, Mr. Slama was notified of the September Order and its requirements. When I told him of it, the Notice of Appearance as Counsel that he filed stated in a footnote that he would be filing a motion to extend the time to comply with the Order's directive to proceed with filing the Appellant's initial brief on appeal. The extension would have been brief due to the expedited nature of the appeal.

14. The following day after the Notice of Appearance was filed with the DCA, the case was dismissed for lack of prosecution.

15. My failure to open the document on my iPhone earlier due to mistake or inadvertence led to the Appellant's failure to file the initial appeal or to request additional time to do so.

16. The Firm's usual and customary practice is for the client to meet with the attorney and to discuss any orders or timeframes upon seeking representation. Because she was a prior client and her familiarity with me, Ms. Jones used the cell phone text message to communicate that information. Due to mistake and inadvertence, the information was never communicated by me to the attorney in a timely manner as he was proceeding to appear as Counsel.



Lorrie Bowman
Lorrie Bowman, Legal Assistant

DATED: 10/30/2020, 2020.

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151**

September 23, 2020

**CASE NO.: 1D20-1243
L.T. No.: 16-2017-DP-000128**

S. J., mother of A.C. and A.W, each v.

Department of Children and
Families

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion, filed September 21, 2020, is denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

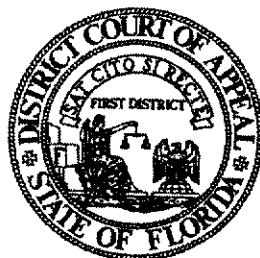
Served:

Amanda VanLanningham
Shannon L. Shaw
Ward L. Metzger

Sara Goldfarb
Thomasina F. Moore
S. J.

cc

Kristina Samuels
KRISTINA SAMUELS, CLERK



7

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151**

September 16, 2020

**CASE NO.: 1D20-1243
L.T. No.: 16-2017-DP-000128**

S. J., mother of A.C. and A.W, each v.
a minor child

Department of Children and
Families

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

The motion of Brian J. Cabrey, Esquire docketed August 31, 2020, seeking leave to withdraw as counsel for Appellant, is granted. Appellant is now appearing in proper person in this appeal.

Counsel shall promptly transmit to Appellant a copy of the record on appeal and file a notice of compliance with this Court so certifying on or before September 23, 2020. A Copy of the notice of compliance shall also be served on pro se Appellant.

Appellant may, within 20 days of service of counsel's notice of compliance, file with the Clerk of this Court an initial brief. See Fla. R. App. P. 9.146(g)(4)(B). If Appellant fails to timely file an initial brief, this appeal is subject to dismissal without further opportunity to be heard. See *N.S.H. v. Dep't of Children & Family Servs.*, 843 So. 2d 898 (Fla. 2003).

This case is receiving expedited treatment because it affects the welfare of a child or children. The filing of motions by any party shall not toll the running of the briefing schedule. A party wishing to respond to a motion may serve one response within 15 days of service of the motion. If a party, court reporter, or clerk is required or permitted to do an act within some prescribed time after service of a document and the document is served by mail, 3 days may be added to the prescribed period.

Copies of Florida Rules of Appellate Procedure 9.146 (appeal proceedings in juvenile dependency and termination of parental rights cases), 9.210 (briefs), and 9.420 (filing and service) are hereby provided to Appellant S.J.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

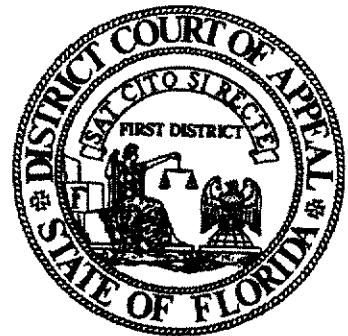
S.

Amanda VanLanhingam
Sara Goldfarb
Thomasina F. Moore
S. J.

Brian J. Cabrey
Shannon L. Shaw
Ward L. Metzger
Hon. Ronnie Fussell, Clerk

co

Kristina Samuels
KRISTINA SAMUELS, CLERK



**DISTRICT COURT OF APPEAL
FIRST DISTRICT**

CASE NO.: 1D20-1243
L.T. NO.: 16-2017-DP-000128

IN RE: the interest of:

Child A : A.C.
Child B : A.W.

NOTICE OF APPEARANCE OF COUNSEL

NOTICE IS GIVEN that the **Law Office of Robert J. Slama, Esquire**, shall serve as Counsel for the Appellant, **STEPHANIE JONES**, natural mother of the minor children, in the appeal to the First District Court of Appeal of the Court's Final Judgment Terminating the Mother's Parental Rights to Minor Children and Permanent Commitment and Disposition following hearing by the Honorable Mallory Cooper, Circuit Court Judge on this 23rd day of October, 2020, and requests that all notices, pleadings, papers, and exhibits be served accordingly.¹

CERTIFICATE OF SERVICE

RECEIVED, 10/23/2020 06:05:30 PM, Clerk, First District Court of Appeal

I HEREBY CERTIFY that copy of the foregoing has been furnished to all Counsel of Record in this cause by e-filing and the Clerk of the First District e-file Portal and by email to sara.goldfarb@gal.fl.gov; thomasina.moore@gal.fl.gov; appellate.e-service@gal.fl.gov; ward.metzger@myfamilies.com; closeloansjones@gmail.com; on this 23rd day of October, 2020.

¹ The Appellant will file separately a request for an extension of time to file the initial brief on appeal.

9,

STATE OF FLORIDA
DISTRICT COURT OF APPEAL
FIRST DISTRICT

S.J., mother of A.C. and A.W., each
a minor child,

Appellant/Petitioner(s),
v.

Department of Children and Families,

DCA CASE NO.: 1D20-1243
L.T. NO.: 16-2017-DP-128-AB

Appellee/Respondent(s).

/

NOTICE OF COMPLIANCE

I HEREBY CERTIFY that I transmitted a copy of the record on appeal in this matter on September 23, 2020 to the Appellant, S.J., by U.S. Mail addressed to Stephanie Jones, 9802 Baymeadows Rd., Ste. 12, Jacksonville, Florida 32256.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this notice has been served by e-service, e-mail, and/or U.S. Mail this 23rd day of September, 2020 to:
Sara Goldfarb, appellate counsel for GALP: sara.goldfarb@gal.fl.gov
P.O. Box 10628 Tallahassee FL 32302

Thomasina Moore, appellate counsel for GALP:
thomasina.moore@gal.fl.gov
P.O. Box 10628 Tallahassee FL 32302

Guardian Ad Litem Program: appellate.e-service@gal.fl.gov
214 N Hogan St., Ste. 6004, Jacksonville, FL 32202

Ward L. Metzger, appellate counsel for DCF: ward.metzger@myflfamilies.com
921 N. Davis St., Building B, Ste. 360, Jacksonville FL 32209

S.J., Appellant Mother: closeloansjones@gmail.com
9802 Baymeadows Rd., Ste. 12, Jacksonville, Florida 32256

CABREY LAW

/s/ Brian J. Cabrey
BRIAN J. CABREY
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Post Office Box 350294
Jacksonville, FL 32235
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Attorney for Appellant Mother/Petitioner