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ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2019

2180633 and 2180634

E.C.B.

v.

Madison County Department of Human Resources

**Appeals from Madison Juvenile Court
(JU-13-277.02 and JU-18-660.01)**

EDWARDS, Judge.

In May 2018, the Madison County Department of Human Resources ("DHR") filed petitions in the Madison Juvenile Court ("the juvenile court"), seeking to have B.C. and C.C. ("the children") declared dependent because, according to the

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allegations in the petitions, E.C.B. ("the mother") and J.R.C. ("the father") had both tested positive for illegal drugs. The petition relating to B.C. was assigned case number JU-13-277.02, and the petition relating to C.C. was assigned case number JU-18-660.01. In August 2018, the juvenile court entered a judgment in both case number JU-18-660.01 and case number JU-13-277.02 ("the dependency actions"), declaring the children dependent, awarding their legal custody to DHR, and awarding temporary physical custody to J.C. ("the paternal grandfather"). In January 2019, the juvenile court set the dependency actions for a dispositional and permanency hearing to be held on March 20, 2019.

On March 20, 2019, the mother filed a motion to continue the dispositional and permanency hearing in the dependency actions, and counsel for the mother appeared at the hearing to explain that the mother was in Florida and was unable to travel to the hearing. Although the juvenile court did not expressly rule on the mother's motion, that motion was implicitly denied when the juvenile court proceeded to conduct the hearing in her absence. The attorneys for the father and for DHR indicated that they were in agreement with

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DHR's request that the children be placed in the permanent legal and physical custody of the paternal grandfather and that DHR be relieved of supervision. Counsel for the mother indicated that the mother was not in agreement with DHR's request and stated that the mother was requesting a hearing, which the juvenile court indicated had been set for that date. The juvenile court then conducted a hearing at which no testimony was taken and at which no evidence was admitted.

The juvenile court entered judgments in the dependency actions on April 15, 2019, concluding that the children remained dependent, awarding the paternal grandfather permanent legal and physical custody of the children, relieving DHR of further supervision, and closing the cases. The mother filed timely notices of appeal in the dependency actions, and we consolidated the mother's appeals. On appeal, the mother argues that the juvenile court violated her due-process rights by failing to take evidence at the March 20, 2019, hearing to establish that the children remained dependent and that the best interests of the children would be served by awarding the paternal grandfather permanent custody of the children. DHR concedes that the manner in which the

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juvenile court conducted the proceedings on March 20, 2019, requires reversal of the juvenile court's April 2019 judgments awarding custody of the children to the paternal grandfather and relieving DHR of further supervision.

A juvenile court's finding of dependency must be supported by clear and convincing evidence. See Ala. Code 1975, § 12-15-311(a). We concluded in M.P.G. v. Jefferson County Department of Human Resources, 215 So. 3d 1096, 1100 (Ala. Civ. App. 2016), that a juvenile court may not "close" a dependency case without holding a dispositional trial at which a parent is given the opportunity to introduce evidence regarding the continued dependency and the proper disposition of the child. Furthermore, in L.W. v. Cullman County Department of Human Resources, 181 So. 3d 1070, 1071 (Ala. Civ. App. 2015), we explained that a juvenile court violates a parent's due-process rights when that court fails to receive evidence in support of a custody or dependency judgment. We held similarly in A.D.J.D. v. Cullman County Department of Human Resources, 181 So. 3d 359, 361 (Ala. Civ. App. 2015).

As in A.D.J.D.,

"the record [in the present case] reflects that the mother did not appear at that hearing and that no

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party presented evidence at that hearing regarding the [children's] dependency, the suitability of [the paternal grandfather] for custody, or the propriety of terminating DHR's services to the family. The [April 2019] judgment[s] [are] devoid of evidentiary support and [were] entered in a manner inconsistent with the mother's right to due process."

181 So. 3d at 361. Accordingly, the April 2019 judgments of the juvenile court are reversed, and the causes are remanded for proceedings consistent with this opinion.

2180633 -- REVERSED AND REMANDED.

2180634 -- REVERSED AND REMANDED.

Thompson, P.J., and Moore, Donaldson, and Hanson, JJ.,
concur.