

REL: January 7, 2022

**Notice:** This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0649), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2021-2022

---

2200174 and 2200175

---

T.M.W.

v.

W.S.L. III and C.S.L.

**Appeals from Madison Juvenile Court  
(JU-12-734.03 and JU-20-302.01)**

On Applications for Rehearing

MOORE, Judge.

This court's opinion of October 8, 2021, is withdrawn, and the following is substituted therefor.

2200174 and 2200175

In appeal number 2200174, T.M.W. ("the mother") has appealed from a judgment entered by the Madison Juvenile Court ("the juvenile court") modifying her visitation with her older son, P.L. In appeal number 2200175, the mother has appealed from a judgment finding her younger son, J.W., dependent and awarding custody of J.W. to W.S.L. III and C.S.L. ("the maternal grandparents"). On October 8, 2021, this court issued an opinion on original submission, reversing the juvenile court's judgments and remanding the cases with instructions.

On October 22, 2021, the maternal grandparents filed applications for a rehearing directed to this court's October 8, 2021, opinion. On November 4, 2021, the maternal grandparents filed in this court a suggestion of death, asserting that the mother had died on November 3, 2021. Following the filing of the suggestion of death, this court ordered the filing of letter briefs addressing whether these appeals had been rendered moot by the death of the mother. The maternal grandparents and the mother's attorney both filed a brief. They appear to agree that the death of the mother renders the mother's appeals moot. We agree.

2200174 and 2200175

In C.J. v. T.J., 225 So. 3d 115 (Ala. Civ. App. 2016), this court discussed whether the death of C.J., during the pendency of her appeal from a judgment terminating her parental rights to her child, rendered C.J.'s appeal moot. This court explained:

" " " "The test for mootness is commonly stated as whether the court's action on the merits would affect the rights of the parties." Crawford v. State, 153 S.W.3d 497, 501 (Tex. App. 2004) (citing VE Corp. v. Ernst & Young, 860 S.W.2d 83, 84 (Tex. 1993)). "A case becomes moot if at any stage there ceases to be an actual controversy between the parties." Id. (emphasis added) (citing National Collegiate Athletic Ass'n v. Jones, 1 S.W.3d 83, 86 (Tex. 1999))."

" " "Chapman v. Gooden, 974 So. 2d 972, 983 (Ala. 2007) (first emphasis added). See also Steffel v. Thompson, 415 U.S. 452, 459 n.10, 94 S.Ct. 1209, 39 L.Ed.2d 505 (1974) ('[A]n actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.')"

2200174 and 2200175

" 'South Alabama Gas Dist. v. Knight, 138 So. 3d 971, 974-75 (Ala. 2013).

" "'[A]n appeal will be dismissed as moot "if an event happening after hearing and decree in circuit court, but before appeal is taken, or pending appeal, makes determination of the appeal unnecessary or renders it clearly impossible for the appellate court to grant effectual relief." ' Masonry Arts, [Inc. v. Mobile Cty. Comm'n], 628 So. 2d [334] at 335 [(Ala. 1993)], quoting Morrison v. Mullins, 275 Ala. 258, 259, 154 So. 2d 16, 18 (1963)."

" 'Estate of Mollett v. M & B Builders, L.L.C., 749 So. 2d 466, 469 (Ala. Civ. App. 1999).'

"Davis v. Davis, 221 So. 3d 474, 480 (Ala. Civ. App. 2016)."

225 So. 3d at 117.

C.J. involved the termination of C.J.'s parental rights to her child. C.J. died during the pendency of the appeal, and the attorney for C.J. filed a suggestion of death and a motion to dismiss the appeal. This court entered an order directing counsel for T.J., who was the petitioner in the termination-of-parental-rights case and the appellee before this court, and the child's guardian ad litem to file responses to the suggestion of death

2200174 and 2200175

and the motion to dismiss and ordered them to specifically address " 'whether dismissal of [the] appeal could adversely affect the rights of the child to inherit from [C.J.] and/or to receive proceeds from any action arising from the wrongful death of [C.J.].' " 225 So. 3d at 116. Both T.J. and the guardian ad litem filed a response. After determining the reasoning in cases decided by the Fourth District Court of Appeals of Florida and a Texas Court of Appeals to be persuasive, and after stating the well-settled law that "'the paramount concern in proceedings to terminate parental rights is the best interest of the child,'" 225 So. 3d at 118 (quoting B.H. v. M.F.J., 197 So. 3d 997, 1000 (Ala. Civ. App. 2015), quoting in turn R.S. v. R.G., 995 So. 2d 893, 903 (Ala. Civ. App. 2008)), this court concluded that, because the case did not "involve merely a personal interest of [C.J.] that ceased to exist at her death but, instead, involve[d] a property interest of the child that exists because of [C.J.'s] death," C.J.'s appeal was not moot. 225 So. 3d at 119.

The present appeals do not involve the termination of the mother's parental rights; instead, they involve a modification of the mother's visitation rights with P.L. and a determination that J.W. is dependent.

2200174 and 2200175

Therefore, regardless of the disposition of these appeals, P.L. and J.W. will maintain any property rights associated with the mother's status as their mother. The rights involved in these appeals are purely personal to the mother, and, therefore, the appeals have been rendered moot by the mother's death during the pendency of the appeals. Thus, we dismiss the mother's appeals. C.J., 225 So. 3d at 117.

2200174 -- APPLICATION OVERRULED; OPINION OF OCTOBER 8, 2021, WITHDRAWN; OPINION SUBSTITUTED; APPEAL DISMISSED.

2200175 -- APPLICATION OVERRULED; OPINION OF OCTOBER 8, 2021, WITHDRAWN; OPINION SUBSTITUTED; APPEAL DISMISSED.

Thompson, P.J., and Edwards, Hanson, and Fridy, JJ., concur.