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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2021-2022

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Randolph County Department of Human Resources

v.

K.W. and C.J.

**Appeal from Randolph Circuit Court
(JU-19-133.03)**

EDWARDS, Judge.

In September 2020, the Randolph County Department of Human Resources ("DHR") filed a petition in the Randolph Juvenile Court ("the juvenile court") seeking to terminate the parental rights of K.W. ("the

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mother") and C.J. ("the father") to W.J. ("the child"). After a trial, the juvenile court entered a judgment terminating the parental rights of the mother and the father. The mother and the father appealed that judgment to this court, but, after the juvenile court determined that the record was not adequate for an appeal to this court, see Rule 28(A)(1)(c)(i), Ala. R. Juv. P., we transferred the appeal to the Randolph Circuit Court for a trial de novo.

After a trial held on June 30, 2021, the Randolph Circuit Court ("the trial court") entered a lengthy judgment denying DHR's petition to terminate the parental rights of the mother and the father. In that judgment, the trial court outlined the evidence presented at trial and specifically stated that it had considered all 13 factors listed in Ala. Code 1975, § 12-15-319, in making its decision. Both DHR and the guardian ad litem for the child filed postjudgment motions, which the trial court denied. DHR filed a timely notice of appeal to this court.

The termination of parental rights is governed by Ala. Code 1975, § 12-15-319, which reads, in part:

"(a) If the juvenile court finds from clear and convincing evidence, competent, material, and relevant in nature, that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents renders them unable to properly care for the child and that the conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parents. In a hearing on a petition for termination of parental rights, the court shall consider the best interests of the child. In determining whether or not the parents are unable or unwilling to discharge their responsibilities to and for the child and to terminate the parental rights, the juvenile court shall consider the following factors including, but not limited to, the following:

"....

"(2) Emotional illness, mental illness, or mental deficiency of the parent, or excessive use of alcohol or controlled substances, of a duration or nature as to render the parent unable to care for the needs of the child.

"(3) That the parent has tortured, abused, cruelly beaten, or otherwise maltreated the child, or attempted to torture, abuse, cruelly beat, or otherwise maltreat the child, or the child is in clear and present danger of being tortured, abused, cruelly beaten, or otherwise maltreated as evidenced by the treatment of a sibling.

"....

"(6) Unexplained serious physical injury to the child under those circumstances as would indicate that the injuries resulted from the intentional conduct or willful neglect of the parent.

"(7) That reasonable efforts by the Department of Human Resources or licensed public or private child care agencies leading toward the rehabilitation of the parents have failed.

"....

"(12) Lack of effort by the parent to adjust his or her circumstances to meet the needs of the child in accordance with agreements reached, including agreements reached with local departments of human resources or licensed child-placing agencies, in an administrative review or a judicial review.

"(13) The existence of any significant emotional ties that have developed between the child and his or her current foster parent or parents, with additional consideration given to the following factors:

"a. The length of time that the child has lived in a stable and satisfactory environment.

"b. Whether severing the ties between the child and his or her current foster parent or parents is

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contrary to the best interest of the child.

"c. Whether the juvenile court has found at least one other ground for termination of parental rights."

The test a juvenile court must apply in a termination-of-parental-rights action is well settled:

"A juvenile court is required to apply a two-pronged test in determining whether to terminate parental rights: (1) clear and convincing evidence must support a finding that the child is dependent; and (2) the court must properly consider and reject all viable alternatives to a termination of parental rights. Ex parte Beasley, 564 So. 2d 950, 954 (Ala. 1990)."

B.M. v. State, 895 So. 2d 319, 331 (Ala. Civ. App. 2004). "A natural parent's prima facie right to the custody of his or her child is outweighed only by clear and convincing evidence that termination of parental rights is in the best interest of the child." D.B. v. State Dep't of Hum. Res., 778 So. 2d 837, 838 (Ala. Civ. App. 2000). "Clear and convincing evidence" is "[e]vidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness

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of the conclusion.'" L.M. v. D.D.F., 840 So. 2d 171, 179 (Ala. Civ. App. 2002) (quoting Ala. Code 1975, § 6-11-20(b)(4)).

We have specifically stated the standard of review of an appeal from a judgment declining to terminate parental rights only once:

"On appeal from a judgment declining to terminate parental rights on a petition filed by [the Department of Human Resources], this court will affirm the judgment unless [the Department of Human Resources] was entitled to judgment as a matter of law. See Montgomery Cty. Dep't of Human Res. v. A.S.N., 206 So. 3d 661, 676 (Ala. Civ. App. 2016) (Moore, J., concurring in the rationale in part and concurring in the result) (citing In re A.L.D.H., 373 S.W.3d 187, 192-93 ([Tex. App.] 2012)). In order to meet that burden, [the Department of Human Resources] must demonstrate that the law, as applied to the undisputed evidence in the record, requires termination of parental rights. Id."

Dallas Cnty. Dep't of Hum. Res. v. A.S., 212 So. 3d 959, 961 (Ala. Civ. App. 2016). As Judge Moore recently explained in his special concurrence in Jefferson County Department of Human Resources v. S.W., 324 So. 3d 1240, 1262 (Ala. Civ. App. 2020):

"As a general rule, this court may not reweigh the evidence in a termination-of-parental-rights proceeding. See Ex parte T.V., 971 So. 2d 1 (Ala. 2007). [On appeal from a judgment declining to terminate parental rights,] this court can determine only that the juvenile court erred in its

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weighing of the evidence if [the Department of Human Resources] is entitled to a judgment as a matter of law, i.e., that no evidence supports the factual determinations necessary to the judgment and that the evidence supports only a determination that grounds for termination exist. See In re A.L.D.H., 373 S.W.3d 187, 192-93 (Tex. App. 2012). By that standard, this court can reverse a juvenile court's judgment and order a juvenile court to terminate the parental rights of a parent only if the undisputed evidence requires that legal conclusion.'"

(Quoting Montgomery Cnty. Dep't of Hum. Res. v. A.S.N., 206 So. 3d 661, 676 (Ala. Civ. App. 2016) (Moore, J., concurring in the rationale in part and concurring in the result).)

Thus, when reviewing a judgment denying a petition to terminate parental rights, this court will review the evidence to determine whether the party petitioning for the termination of parental rights has established undisputedly that the child or children at issue are dependent or that grounds for termination exist, that no viable alternative to the termination of parental rights exists, and that the termination of parental rights will be in the best interest of the child or children involved. If the evidence on any one of those elements is in dispute, we cannot reverse the judgment denying the petition for

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termination of parental rights. See, e.g., Shoney's, Inc. v. Barnett, 773 So. 2d 1015, 1021 (Ala. Civ. App. 1999) (quoting Alpine Bay Resorts, Inc. v. Wyatt, 539 So. 2d 160, 162 (Ala.1988), quoting in turn Deaton, Inc. v. Burroughs, 456 So. 2d 771, 775 (Ala.1984)) ("'[O]nly where there is a complete absence of proof on a material issue or where there are no controverted issues of fact on which reasonable people could differ'" should a judgment as a matter of law be granted.").

The evidence at trial was sharply conflicting and concerned almost exclusively whether R.J. ("the sibling"), who is the older child of the mother and the father and the child's sibling, had been neglected, abused, or intentionally injured at the hands of the mother. The sibling, who at the time of the injury was four months old, had suffered fractures to her left tibia and left fibula and a small skull fracture in June 2018. According to the testimony at trial, the mother had noticed that the sibling was fussy and had cried out when the mother had touched her leg on Sunday, June 17, 2018, when the mother was giving the sibling a bath. The mother said that she, the father, and the sibling had attended a

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Father's Day barbeque at a family member's home that day. The mother telephoned and spoke with a friend who was a nurse about the sibling; the friend recommended that the mother take the sibling to the pediatrician the next day, which the mother did. The mother then took the sibling to the emergency room at Children's Hospital, where the sibling was discovered to have suffered the above-described injuries. The mother testified that she had initially told personnel at the hospital that she could not think of what might have caused the injuries to the sibling but said that she recalled later that the sibling had fallen from the bed approximately 12 days before. The sibling was not admitted to the hospital and, according to the mother, was treated by having her leg wrapped in a bandage.

The father testified that he was working out of town when the sibling was taken to the hospital for her injuries. However, the father testified that he had attended the family event on Father's Day. Like the mother, the father denied knowledge of how the injuries to the sibling

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had occurred. He testified that he did not believe that the mother had intentionally injured the sibling.

Both the mother and the father testified that they had complied with services offered by DHR. They both testified that they had undergone two psychological evaluations, although they both expressed exasperation at having had to drive from Randolph County to Mobile to spend an hour with Dr. Jack Carney, the second psychologist who evaluated them, when Dr. Bridgette Smith, the first psychologist who evaluated them, had already performed an evaluation. Both the mother and the father also explained that they had not resumed counseling after the transfer of the appeal of the juvenile court's judgment to the trial court because, they said, their DHR caseworker, Keira Simmons, had indicated that she would provide further information regarding counseling services but had never done so.

At the request of DHR, the records of the sibling's visit to Children's Hospital were reviewed by Dr. Michael Allen Taylor, the division director of child-abuse pediatrics at the University of Alabama at Birmingham.

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Although DHR attempted to admit the records of the sibling's visit to and treatment at Children's Hospital, the trial court properly excluded those records, which Dr. Taylor, who is not employed by Children's Hospital, could not authenticate. Dr. Taylor opined that the mother's explanation of the sibling's injuries -- that the sibling fell from a bed approximately 12 days before the sibling presented at the emergency room -- was not a plausible explanation for the sibling's injuries. He explained that, if that had been the cause of the sibling's injuries, the sibling would not have presented with swelling associated with those injuries. Dr. Taylor opined that the injuries to the sibling's leg most likely resulted from a blow to her leg or from being picked up by the ankle or foot. In Dr. Taylor's opinion, the sibling's injuries most likely occurred on June 17, 2018, the day before the visit to Children's Hospital, and, at most, no more than three to five days before that date.

The mother testified that she had visited with her family on June 17, 2018, to celebrate Father's Day. She said that she had supervised the sibling most of the day but that other family members had also tended to

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the sibling. She specifically recalled her sister-in-law, J.W., lying down with the sibling for a nap and the sibling's being held briefly by a 14-year-old nephew, D.W. The mother denied having harmed the sibling and testified that she had informed the hospital personnel about the fall from the bed because that was the only possible incident that she could recall that might have caused the injuries to the sibling. She admitted that she later discussed other potential causes of the sibling's leg injuries, including perhaps too roughly placing the sibling in a "sit-up seat" when the sibling stiffened her leg. However, the mother testified that she did not know how the sibling had been injured.

Interestingly, the mother testified that, during a visit with the sibling a few months after her removal from the parents' home by DHR, she had experienced an episode of syncope. She said that she had been seated at the kitchen table with the sibling in her lap and that she recalled someone calling her name. She said that she had apparently passed out and dropped the sibling. She said that, after that incident,

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the sibling was transported to the hospital but that the sibling had suffered no significant injuries.

Dr. Smith testified that she had performed a psychological evaluation on the mother and the father in December 2018. She said that she had not discovered any serious psychological illnesses and that the interviews and testing of both the mother and the father were normal. Dr. Smith explained that she had diagnosed the mother with attention-deficit/hyperactivity disorder ("ADHD") and with adjustment disorder and had diagnosed the father with adjustment disorder. According to Dr. Smith, "adjustment disorder" is a "mild" diagnosis that means that "life has become stressful and you're having to deal with it"; she described the diagnosis as one of "environmental stress." Dr. Smith explained that the mother's adjustment disorder was "with mood disturbance," which, she said, indicated that it was demonstrated through anxiety, sadness, and stress as opposed to, for example, "with disturbance of behavior," which would indicate that someone's response to stress might be to engage in physical fights.

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Dr. Smith testified that she had recommended that the mother and the father continue parental training, that they be permitted to see the sibling as much as possible, and that the father would be an appropriate supervisor if visits needed to be supervised. Dr. Smith admitted that she had not been requested to recommend whether parental rights should be terminated. She commented that, in fact, based on her evaluation, she had "made a false assumption" that the mother and the father would be reunited with the sibling. She opined that the sibling's case was not a case for termination of parental rights and stated that, in her opinion, DHR had failed to consider that the situation that had caused the sibling's injuries might have been an accident that a sleep-deprived mother of a newborn did not actually recall.

David Cunningham, a licensed professional counselor, testified that he had performed parenting assessments on the mother and the father in September 2018 and that he had counseled both the mother and the father between October 26, 2018, and August 6, 2019. Cunningham said that his initial parenting assessments had discovered no deficits that

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would indicate risks of serious abuse or neglect. He explained that his records of counseling sessions indicated that the mother had not been "accurate" about the cause of the sibling's injuries and that she had not been truthful when she had told him during a session that the sibling suffered from a bone condition. Cunningham also testified that the mother had initially been resistant to feedback indicating that her ADHD could have played a role in causing the sibling's injuries; he also described the mother as initially having been "not receptive" to counseling, which, he commented, was "not unusual in a DHR case."

Although Cunningham admitted that his notes indicated that the mother had not accepted instruction well and that she had appeared to parent based on her wants and not on the best interest of the sibling, he explained that his counseling notes typically contained instances of behavior that he believed warranted addressing in further sessions as opposed to notations indicating what progress the mother had made. He stressed that the mother had developed improved reception to counseling and that she had exhibited overall improvement beginning in February

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2019. In fact, Cunningham testified that he had recommended reunification of the mother and the sibling.

When questioned further, Cunningham opined that the mother and the sibling should have been reunited and that the mother and the child should be reunited. He explained that he never saw a basis for the termination of the mother's parental rights during his counseling of the mother and the father. He indicated that, in his opinion, the injury to the sibling was likely accidental.

Dr. Carney testified that he had performed a second psychological evaluation on the mother and the father in March 2020. According to Dr. Carney, the mother suffers from histrionic personality disorder with turbulent features (which Dr. Carney said was "the personality element of bipolar disorder") and persistent depressive disorder. He also "diagnosed" her as the perpetrator of child physical abuse. He noted that "her testing" indicated that she was "hot-headed and impulsive to the degree that she is physically assaultive"; Dr. Carney then stated that the father described the mother as having "the worst temper." Dr. Carney

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also opined that the mother met "almost all criteria" of a perpetrator of child physical abuse. In his testimony, Dr. Carney questioned the timing of the injury to the sibling, whom the mother had withdrawn from day care in May 2018, and indicated that the mother's testing and interview had revealed her to be attention seeking and self-isolating. In contrast to Dr. Smith, Dr. Carney stated that the mother did not have ADHD; instead, he said, the mother's testing and interview were "more consistent with turbulent personality bipolar-type presentation."

Dr. Carney diagnosed the father with dependent personality disorder; "major depressive disorder, recurrent moderate"; alexithymia; and "ADHD, moderate." He described the father as "overly preoccupied with being left alone" and as having a fear of abandonment and stated that the father withdraws from situations and relationships as a form of self-protection. Dr. Carney also explained that the father "submerges" and that he does not stand up to the mother. According to Dr. Carney, the father would lack protective capacity because he is aloof and would not provide adequate supervision of the mother.

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Simmons testified that DHR's concern about the child was "putting [him] back in a home where the sibling has unexplained injuries." She stated that DHR's policy is that a severe injury to a child without explanation is a basis for seeking termination of parental rights. See § 12-15-319(a)(6). She also noted that § 12-15-319(a)(3) provides that abuse to a sibling can form the basis for terminating the parental rights to a different child.

Simmons testified that the mother and the father had been found "indicated" for neglect and inadequate supervision of the sibling. The letters provided to the mother and the father regarding those indicated findings are contained in the record. The letters also inform the mother and the father that the sibling was found to have been abused but that the person responsible for the abuse had not been identified. See Ala. Admin. Code, r. 660-5-34-.07(1) (explaining that the person responsible for the alleged abuse need not be identified to support an "indicated" finding).

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Simmons said that DHR had provided the mother and the father a parenting assessment, two psychological evaluations, individual counseling, and parenting classes. She admitted that the mother and the father had completed those initial services, but, she said, they had not continued counseling as recommended by Dr. Carney after the January 2021 individualized-service-plan meeting conducted after the transfer of the appeal to the trial court. According to Simmons, she had told the mother and the father that they could use their choice of a provider or they could use "Altapointe"; Simmons said that she had provided the mother and the father with a local number for "Altapointe" but that she had informed the mother and the father that she did not have the direct number to the appointment line.

Although she listed a few complaints about the mother's falling asleep during a visit with the child and the mother's feeding the child all of his bottles too early during a visit, Simmons admitted that the true issue for DHR was the mother's lack of a plausible explanation for the injuries to the sibling. Simmons testified that DHR would automatically

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remove any child born to the mother and the father from their custody because of the failure to provide that explanation. Simmons also said that DHR could not provide services to address the "needs" of the mother and the father without knowing how the sibling had been injured. When asked if DHR had any evidence indicating that the mother had actually injured the sibling, Simmons stated that the mother had admitted to being the sibling's primary caregiver and that the father had been out of town for work when the sibling was injured.¹ When asked the question again, Simmons said that DHR had no such evidence.

Dr. Smith was recalled by the mother to challenge the testimony of Dr. Carney. Dr. Smith questioned how Dr. Carney could have made the diagnoses he had following a brief, one-hour interview session with each parent. Dr. Smith was most concerned with Dr. Carney's diagnosing the

¹We recognize that this statement appears to be false. Although the father was not at home on the date the sibling was taken to the hospital and may not have been home on the date the sibling reportedly fell from the bed, the father was admittedly in attendance at the Father's Day event the day preceding the hospital visit, which was the date that Dr. Taylor indicated was the most likely date of the sibling's injuries.

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mother as having "the personality element of bipolar disorder," which, Dr. Smith testified, could not be diagnosed in just one session and required documenting a patient's cyclical mood swings over a period. Regarding his conclusion that the mother did not have ADHD, she noted that he had given the mother the same test that she had and that the results of that one test would not be sufficient to rule out ADHD. She opined that his reports, which are lengthy and, to be mild, oddly compiled, were inappropriate. For example, she pointed out a section of a report indicating that the mother had reported that the sibling liked to listen to the music of Chris Brown and the song "Baby Shark," which was followed by Dr. Carney's comments, which read:

"Chris Brown is noted to be physically abusive. He pled guilty to felony assault charges after beating his then girlfriend Rihanna. He was placed on 6 years of probation. The latest allegation was announced last week in a lawsuit alleging an incident at Brown's house in which a woman was lured to his residence during a drug-fueled party and barricaded in a room with Brown."

DHR also presented the testimony and report of Sonia Martin, a bonding expert. Martin testified that the child was closely bonded to his

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foster parents and that removing the child from their custody would be harmful to him. She admitted that she had not observed the child with the mother or the father and that she could not speak to the bond between the child and either of the parents, but she stated that any such observation would not have been likely to change her opinion that the child should remain in the custody of the foster parents.

On appeal, DHR complains that the trial court erred by failing to terminate the parental rights of the mother and the father. DHR contends that it presented clear and convincing evidence indicating that the mother and the father presented a risk of serious harm to the child as evidenced by the unexplained serious physical injuries suffered by the sibling. In support of its argument, DHR focuses on § 12-15-319(a)(6), which provides that one factor a court should consider when determining whether to terminate parental rights is the "[u]nexplained serious physical injury to the child under those circumstances as would indicate that the injuries resulted from the intentional conduct or willful neglect of the parent," and § 12-15-319(a)(3), which provided that another such

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factor is a parent's exposing a sibling of a child to abuse. However, in light of the language of those subsections and the conflicting evidence contained in the record, we cannot agree with DHR that the judgment of the trial court is due to be reversed.

DHR contends that it presented clear and convincing evidence supporting the termination of the mother's and the father's parental rights to the child, specifically, evidence indicating that the child would be at serious risk of harm if returned to the mother and the father in light of the unexplained injuries to the sibling. See §12-15-319(a)(3). DHR's reliance on § 12-15-319(a)(3) appears to be flawed, however. Although § 12-15-319 provides that a parent's abuse of a child is a factor supporting termination of his or her parental rights to that child or to a sibling of that child, DHR failed to present clear and convincing evidence indicating that either parent had intentionally injured the sibling or had abused the sibling in any way. Although Dr. Carney "diagnosed" the mother as a perpetrator of child physical abuse and diagnosed the mother with certain mental-health disorders, the trial court appears to have, by

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and large, rejected Dr. Carney's testimony (and report) in favor of Dr. Smith's testimony. Dr. Carney's "diagnosis" of the mother as a perpetrator of child physical abuse notwithstanding, the other evidence of record does not compel the conclusion that the mother or the father committed child abuse.

Moreover, DHR tacitly admits as much. In trial questioning, in Simmons's testimony, and in its brief to this court, DHR repeatedly complains that the mother has failed to provide a plausible explanation for the sibling's injuries, not that she intentionally caused those injuries. The mother and the father admit that they have no explanation and do not know how the sibling was injured. Although it might be that the mother, the father, or both were neglectful or failed to supervise the sibling sufficiently to prevent the injuries, DHR did not find either parent "indicated" for physical abuse in its administrative investigation. Thus, we cannot revisit the trial court's determination that DHR did not present clear and convincing evidence establishing that, based on § 12-

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15-319(a)(3), termination of the parental rights of the mother and the father to the child was warranted.

DHR also relies on § 12-15-319(a)(6) and argues that it presented clear and convincing evidence establishing sufficient basis to terminate the parental rights of the mother and the father because it established that the child's sibling had suffered a serious unexplained injury. However, based on the clear language of § 12-15-319(a)(6), that factor concerns only unexplained serious physical injury to the child at issue in the termination-of-parental-rights action and not unexplained serious physical injury to that child's sibling, which situation is instead more appropriately addressed under § 12-15-319(a)(3). See Blue Cross & Blue Shield of Alabama, Inc. v. Nielsen, 714 So. 2d 293, 296 (Ala. 1998) (quoting IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992)) (explaining that, generally, "[w]ords used in a statute must be given their natural, plain, ordinary, and commonly understood meaning."). We therefore cannot agree with DHR that it established a basis for termination pursuant to § 12-15-319(a)(6).

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DHR also argues on appeal that it presented clear and convincing evidence indicating that the mother and the father failed to adjust their circumstances to meet the needs of the child. However, both on appeal and at trial DHR has repeatedly stated that the mother's failure to provide a plausible explanation for the injuries to the sibling prevented it from developing a plan to address the safety risks posed by the mother and the father. We have explained before that, in order for a court deciding whether to terminate parental rights to determine that rehabilitation has failed or that a parent or parents have failed to adjust their circumstances by declining to complete recommended services, DHR must establish that the services it requires the parent or parents to complete relate to the parental deficiencies that resulted in the dependency of the child. See S.K. v. Madison Cnty. Dep't of Hum. Res., 990 So. 2d 887, 899 (Ala. Civ. App. 2008). Simmons testified that, without knowing exactly how the injuries to the sibling occurred, DHR could not provide services intended to address the "needs" of the mother and the father. By repeatedly complaining that it did not know what

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"risks" it needed to address, DHR has itself established that it could not possibly have presented clear and convincing evidence indicating that the mother and the father failed to adjust their circumstances, because DHR does not know what those "circumstances" are. Furthermore, Simmons made it quite apparent that, in DHR's view, the mother and the father could not effectively rehabilitate themselves solely because the mother would not provide a plausible explanation for the sibling's injuries; in fact, she said that DHR would remove each and every child the mother and the father might have in the future from their custody unless an explanation for the sibling's injuries was supplied.

To the extent that DHR complains that the judgment denying its petition to terminate the parental rights of the mother and the father will leave the child to languish in foster care while the mother and the father continue to fail to make efforts toward rehabilitation, we understand DHR's position only in light of its insistence that, pursuant to its policies and the law, it can never allow the mother and the father to rear another child, at least until the mother produces a plausible

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reason for the sibling's injuries. However, the trial court has concluded that DHR failed to present clear and convincing evidence indicating that termination was warranted and stated specifically that reunification was, in fact, a viable alternative to termination in light of the lack of evidence indicating that the mother and the father are unwilling or unable to discharge their responsibilities for the child or to properly care for him. Although DHR maintains that the law requires it to prevent the mother and the father from ever rearing a child based on the unexplained injuries to the sibling, it is legally incorrect. The trial court concluded that the facts and circumstances of the present case do not rise to the level mandating termination of the parental rights of the mother and the father and that the evidence DHR presented did not establish the existence of the factors supporting termination that DHR relied upon. DHR has not established that, based on the evidence it presented, it was entitled to a judgment as a matter of law terminating the parental rights of the mother and the father. Thus, DHR can and must readjust its

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position, offer appropriate reunification services to the mother and the father, and proceed toward reunification.

AFFIRMED.

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