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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2022-2023

2210300

M.H.

v.

Madison County Department of Human Resources

Appeal from Madison Juvenile Court
(JU-19-920.02)

2210301

M.H.

v.

Madison County Department of Human Resources

Appeal from Madison Juvenile Court
(JU-19-921.02)

THOMPSON, Presiding Judge.

On December 18, 2020, the Madison County Department of Human Resources ("DHR") filed in the Madison Juvenile Court ("the juvenile court") petitions seeking to terminate the parental rights of M.H. ("the mother") to her minor children, N.H. and Ca.H. ("the children"), who were born in 2008 and 2009, respectively. DHR also sought to terminate the parental rights of T.P., the alleged father of the N.H., and to terminate the paternal rights of J.H., the father of Ca.H. The action pertaining to N.H. was assigned case no. JU-19-920.02, and the action pertaining to Ca.H. was assigned case no. JU-19-921.02. The record indicates that DHR also sought to terminate the mother's parental rights to Ch.H., her oldest child and the half brother of the children. However, an alleged father of Ch.H. contacted DHR, and DHR began providing reunification services to that alleged father. Therefore, at the hearing on its petitions to terminate parental rights, discussed infra, DHR withdrew its termination-of-parental-rights petition pertaining to Ch.H., and the termination-of-parental-rights hearing proceeded only as to the children.

On October 4, 2021, in an effort to establish the paternity of N.H., DHR moved the juvenile court to order genetic testing of T.P., who, it

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alleged, was incarcerated at the Madison County jail. On October 15, 2021, the juvenile court ordered that the genetic paternity testing take place.

The juvenile court conducted a hearing and received ore tenus evidence on DHR's petitions on September 21, 2021, and November 29, 2021. On December 13, 2021, the juvenile court entered judgments terminating the parental rights of the mother and T.P. to N.H. and terminating the parental rights of the mother and J.H. to Ca.H. However, each of those judgments was entered in the wrong action, i.e., the judgment entered in the action pertaining to N.H. purported to terminate the parents' rights to Ca.H., and vice versa. On December 14, 2021, the juvenile court entered amended judgments to correct that mistake.

The mother filed a postjudgment motion in each action on December 21, 2021. The juvenile court scheduled those postjudgment motions for a hearing. The mother's postjudgment motions were denied by operation of law on January 4, 2022. See Rule 59.1, Ala. R. Civ. P., and Rule 1(B), Ala. R. Juv. P. The mother filed her notices of appeal on January 4, 2022. On January 12, 2022, the juvenile court entered orders purporting to deny the mother's December 21, 2021, postjudgment

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motions. However, the juvenile court had lost jurisdiction to rule on those motions after they were denied by operation of law, and those January 12, 2022, orders were therefore void for want of jurisdiction. T.P. v. T.J.H., 10 So. 3d 613, 614 (Ala. Civ. App. 2008). Regardless, the mother's January 4, 2022, notices of appeal were timely filed.

We note that in its January 12, 2022, orders purporting to rule on the mother's motions, the juvenile court noted, among other things, that it had been informed that T.P. had died. On February 3, 2022, T.P.'s attorney filed in the juvenile court a motion that suggested the death of T.P. and sought the permission of the court for that attorney to withdraw. In the motion, T.P.'s attorney alleged that T.P. had died on December 6, 2021, i.e., before the entry of the juvenile court's December 13, 2021, judgment. The juvenile court entered an order allowing T.P.'s attorney to withdraw but did not address the validity of the termination-of-parental-rights judgment as it pertained to T.P.

"When an action becomes moot during its pendency, the court lacks power to further adjudicate the matter.

"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.')."

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

DHR's claim seeking to terminate T.P.'s parental rights was rendered moot by T.P.'s death on December 6, 2021. Accordingly, even though the juvenile court was not aware of T.P.'s death at the time, the juvenile court lacked jurisdiction to enter that part of its judgment in case no. JU-19-920.02 that pertained to T.P. We acknowledge, however, that the part of that judgment pertaining to T.P. is not before this court in these appeals.

With regard to the merits of the mother's appeals, the record reveals the following facts. In September 2018, the mother married Q.A. The mother, Q.A., the mother's three children, and the mother's mother ("the maternal grandmother") all lived together in one home. In October 2019, DHR was contacted by a doctor treating N.H., who was 10 years

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old at that time. The doctor reported that N.H. was pregnant and that the baby was due in eight weeks. Cory Walker, a DHR investigator, testified that DHR conducted an investigation that included a forensic interview of N.H. Walker stated that, during that initial forensic interview, N.H. denied that she had been the victim of sexual abuse. However, according to Walker, it was clear that N.H. was not being truthful and that she was repeating information provided to her by someone else; Walker also stated that N.H. became confused when questioned more closely.

Walker testified that, when DHR became involved with the family, the mother initially did not believe that Q.A. could have abused N.H. Instead, Walker stated, the mother told him that she believed that an unidentified "neighborhood boy" or the mother's brother, N.H.'s maternal uncle, might be the father of N.H.'s unborn child. In her testimony at the termination-of-parental-rights hearing, the mother admitted that she had initially believed Q.A.'s denials that he had abused N.H.

DHR entered into a safety plan with the mother pursuant to which all three children were placed in the home of the mother's sister ("the maternal aunt") and were to have no contact with Q.A., the maternal

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grandmother, or Je.H., the children's maternal grandfather. At some point shortly after the implementation of the safety plan, DHR requested that a second forensic interview of N.H. be conducted. Walker testified that the maternal grandmother, who was prohibited from contact with the children pursuant to the terms of the safety plan, transported N.H. to the second forensic interview. At that time, DHR learned that the children had been staying with the maternal grandmother in the home from which they had been removed when DHR had become involved with the family. In her testimony, the mother stated that, as a result of DHR's allegations against Q.A., she and Q.A. had had an altercation. According to the mother, Q.A. beat her and threatened to burn down the maternal aunt's home, where the children were living pursuant to the safety plan. The mother stated that she had then moved the children from the maternal aunt's home and back into the home that she shared with the maternal grandmother because of that threat.

As a result of the family's failure to comply with the terms of the safety plan, DHR terminated the safety plan and placed the children in foster care on December 19, 2019. N.H. disclosed to her foster mother that she had been sexually abused, and DHR conducted a third forensic

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interview. According to Walker, at that third interview, N.H. seemed "sad and depressed" and disclosed that Q.A. had been sexually abusing her for at least one year. DHR later found the mother "indicated," see Ala. Admin. Code (Dep't of Hum. Res.), r. 660-5-34-.07(1), as a result of its investigation; the specific nature of DHR's findings is not set forth in the record, although the record contains a statement indicating that DHR had been and remained concerned about the mother's "protective capacities."

Walker testified that N.H. had stated during her third forensic interview that she had told both the mother and the maternal grandmother that Q.A. had sexually abused her. According to Walker, the maternal grandmother admitted to him that N.H. had spoken to her about Q.A.'s abusing her and claimed to have "spoken" to Q.A. about that abuse on two different occasions. Walker testified that both the mother and the maternal grandmother had stated that they had noticed N.H.'s body changing as a result of her pregnancy but had continued to allow Q.A. to remain in the home. The mother insisted that she had had no way to know about Q.A.'s sexual abuse of N.H. The mother stated that, when

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she noticed N.H.'s body changing as a result of her pregnancy, she had asked N.H. "was there anything going on" but that N.H. had said "no."

Walker testified that DHR contacted law enforcement about N.H.'s disclosure that Q.A. had sexually abused her. Q.A. was ultimately convicted on a charge of sexually abusing a child and sentenced to prison. The results of a DNA paternity test revealed that Q.A. was the father of N.H.'s child. When N.H.'s child was born, that child was also placed in foster care; it is not clear whether the infant was placed in the same foster home as N.H.

At the time DHR became involved with the family in October 2019, the mother tested positive for having used cocaine and marijuana. Karen Jackson, a DHR social worker, testified that DHR offered the mother several reunification services, including a psychological evaluation, counseling, a psychotropic medical assessment, a mental-health assessment, and a substance-abuse assessment. In addition, DHR requested that the mother comply with any recommendations from those assessments or evaluations, to submit to random drug screens, and to attend a parenting class.

The mother testified that she had attended a parenting class offered by the Aletheia House. Jackson testified that the mother had not submitted any documentation to DHR to substantiate her claim that she had attended a parenting class. The mother stated that she had not informed DHR that she had taken the parenting class because, she said, the first DHR social worker assigned to the children's cases, Roshanda Gore, had been so "mean" to her that she "did not want to reach out" to her. The mother was asked why, at the time of the termination-of-parental-rights hearing, she still could not produce evidence indicating that she had attended the parenting class. The mother responded by stating that she had had attempted to contact the personnel of Aletheia House to obtain proof of her attendance at the class but that no personnel from Aletheia House had returned her telephone call. At the hearing in this matter, the mother stated that she had attended a four-hour online parenting class. The mother submitted into evidence a certificate indicating that she had completed that online class on September 14, 2021, i.e., one week before the termination-of-parental-rights hearing began on September 21, 2021.

The mother admitted that, at the time DHR became involved with the family in October 2019, she tested positive for having used cocaine and marijuana. The mother testified at the termination-of-parental-rights hearing that she had "not touched" cocaine in over a year. The mother admitted, however, that she had continued to use marijuana until approximately one month before the start of the termination-of-parental-rights hearing. The mother stated that she had anxiety and preferred to smoke marijuana rather than to take prescription medications to treat her symptoms. The mother admitted that she had missed 38 drug screens since the children had been placed in foster care and that the drug screens to which she had submitted during that time had all been positive for the use of marijuana. The mother stated that she did not think that she would test positive for any illegal substance at the time of the portion of the termination-of-parental-rights hearing held on September 21, 2021, because, she said, she had not used marijuana for approximately one month.

The mother underwent a substance-abuse assessment, and she admitted that she was asked to undergo outpatient substance-abuse treatment offered by Aletheia House. Jackson testified that the mother

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started the program offered by Aletheia House but that she was discharged from that program for excessive absences. The mother testified that her work schedule prevented her from attending the substance-abuse-treatment classes. She stated that she had attended meetings online but that she could not go to the in-person treatment classes or meetings.

However, the mother testified that, at the time of the termination-of-parental-rights hearing, she was attending an online substance-abuse class. The mother testified that she began that online program in August 2021. On further questioning, the mother explained that she was not "deep into" the program at the time of the termination-of-parental-rights hearing. The juvenile court questioned the mother about that program, and the mother stated that the program required four hours of class time and some additional reading; the mother admitted that she had not completed the program at the time the termination-of-parental-rights hearing began.

The mother underwent a psychological evaluation in January 2020, and, as a result of the recommendations from that evaluation, she was offered counseling sessions. The mother did not attempt to attend

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counseling sessions until after DHR filed its December 18, 2020, petitions to terminate her parental rights. The mother testified that, in January 2021, she had asked Gore for a purchase order to pay for her to attend counseling sessions and substance-abuse treatment at a program offered by what the mother referred to as "Wellstone." In February 2021, the mother filed a motion to compel, asking that the juvenile court require DHR to provide that purchase order. On March 26, 2021, the juvenile court entered an order stating that it had received ore tenus evidence on the mother's motion to compel and that that motion was "moot." The mother, however, stated that Wellstone did not receive payment for those counseling services for another month after the entry of the juvenile court's March 2021 order.

According to the mother, she began counseling offered by Wellstone in April 2021 and had attended three counseling sessions by the time the termination-of-parental-rights hearing started. Jackson testified that she had no documentation indicating that the mother was attending counseling before the termination-of-parental-rights hearing. Jackson also testified that the report regarding the mother's psychological evaluation had stated that it was not certain that counseling would

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effectively address the mother's mental-health issues, which are not identified in the record. Therefore, Jackson stated, DHR would have to evaluate the effectiveness of any counseling the mother might be attending.

The mother testified regarding her work history. That evidence indicates that, although the mother has changed jobs frequently, she has maintained consistent employment. However, the mother has not paid any support for the children while they have been in foster care. The mother stated that she had given Ca.H. approximately \$5 to \$10 in cash during several visits, that she had purchased shoes for him that cost approximately \$200, and that she had spent several hundred dollars purchasing clothes for him.

The mother attributed much of her failure to comply with DHR reunification services to Gore, who, she said, had been mean to her and unprofessional. The mother acknowledged that, in a telephone call with Gore, she had cursed at Gore, but, she said, she had later apologized. The mother also read into evidence an e-mail she sent to Gore criticizing DHR for allegedly treating her unfairly, asking for the contact information for Gore's supervisors, and asking for additional visitation with Ca.H. and

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Ch.H. ("the sons"). Gore's e-mail in response, also read into the record, stated, among other things, that DHR was firm in its position that the children should not be returned to the mother and that, for that reason, it would not extend the mother's visitation with the sons. In addition, in her e-mail, Gore pointed out that the mother had not submitted to drug screens and was not compliant with DHR's offered services. Gore stated in her e-mail that she had included, as recipients of that e-mail, her supervisor, Jackson, and Jackson's supervisor.

The mother testified that, at first, "it was hell" for her to obtain the forms necessary for her to submit to drug screening. The mother stated that she stopped attempting to submit to drug screens because, she said, DHR was intentionally "crushing [her] spirit" and "trying to ruin her life." The mother admitted that she had been told that there was a "new person" from whom she could obtain the necessary forms, but that she had not investigated or attempted to obtain those forms. However, the mother began submitting to drug screens consistently between January 2021 and March 2021; all of those drug screens were positive for the use of marijuana. The mother failed to show up for any drug screens between

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March 8, 2021, and September 13, 2021; Jackson testified that DHR considers all missed drug screens to be positive drug screens.

It is not clear from the record when Jackson was assigned to the children's cases. Jackson testified that she had been unable to contact the mother after she was assigned to the cases. The mother admitted that she had not known that Jackson was her social worker for some period because of her failure to maintain contact with DHR.

In December 2019, the juvenile court entered an order prohibiting contact between the mother and N.H., and no party moved to alter that order during the pendency of a dependency action or the underlying termination-of-parental-rights action pertaining to N.H. Accordingly, the mother has had visitation only with the sons. The mother has visited the sons fairly consistently. Jackson stated that there had been some problems with visitations. She stated that the mother was supposed to confirm a scheduled visitation on the day before each visitation and that she sometimes failed to do so. According to Jackson, the sons had also exhibited behavioral issues and had yelled and cursed at the mother during some visitations. The mother testified that the foster mother usually contacted her to verify visitations and that she had been unaware

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that she was supposed to contact DHR or the foster mother herself to confirm visitation times and places. The mother blamed the foster mother for the mother's having missed the two most recent visitations with the sons; she said that the foster mother did not contact her before those visits to confirm the visits.

Jackson testified that, before she was assigned to the children's cases, DHR had investigated and rejected all relatives identified by the mother as possible placement alternatives for the children. She also stated that DHR had located paternal relatives for each of the children. However, according to Jackson, those relatives were either unable or unwilling to provide a placement for the children or were rejected, having been deemed unsuitable by DHR.

The mother testified that she had not lived with Q.A. since he was accused of possibly being the father of N.H.'s child. She stated that Q.A. left her home because he was arrested on charges pertaining to his sexual abuse of N.H. However, the mother stated that she had not believed that Q.A. was the father of N.H.'s child until the paternity-test results confirmed it. The mother stated that she was unsure when she had learned of the results of the paternity test but that it had been while she

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was working at a specific restaurant between November 2019 and April 2020. Regardless, the mother said, she had separated from Q.A. at the time he was arrested, and he did not return to her home. The mother explained that a lack of money to pay an attorney delayed her from obtaining a divorce from Q.A. until July 2021.

The mother still resides in the same home in which she had lived with the children and Q.A. When asked if she thought it was appropriate to seek to have N.H. return to the same home where she had been raped by Q.A., the mother replied, "of course not." She stated that she was willing to move if the children did not want to live in that house. The mother also stated that if the children wanted to leave the United States, they would do so. However, on questioning from the juvenile court, the mother stated that she had not moved from that home because she could not afford to do so.

In its judgments terminating the mother's parental rights, the juvenile court found, among other things, that the mother had failed to adjust her circumstances to meet the needs of the children, and that the children's best interests would be served by the termination of the mother's parental rights. The juvenile court stated that, in reaching its

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decisions, it had paid particular attention to several factors, including its assessment of the credibility of the witnesses during the termination-of-parental-rights hearing.

The grounds warranting a termination of parental rights are set forth in § 12-15-319, Ala. Code 1975, of the Alabama Juvenile Justice Act, § 12-15-101 et seq., Ala. Code 1975. With regard to a juvenile court's consideration of a petition seeking to terminate parental rights, this court has explained:

"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."

B.M. v. State, 895 So. 2d 319, 331 (Ala. Civ. App. 2004) (citing Ex parte Beasley, 564 So. 2d 950, 954 (Ala. 1990)).

"On appeal from ore tenus proceedings, this court presumes the correctness of the juvenile court's factual findings. See J.C. v. State Dep't of Human Res., 986 So. 2d 1172 (Ala. Civ. App. 2007). This court is bound by those findings if the record contains substantial evidence from which the juvenile court reasonably could have been clearly convinced of the fact sought to be proved. See Ex parte McInish, 47 So. 3d 767 (Ala. 2008) (explaining standard of review of factual determinations required to be based on clear and convincing evidence)."

C.C. v. L.J., 176 So. 3d 208, 211 (Ala. Civ. App. 2015).

On appeal, the mother argues that the juvenile court erred in concluding that DHR had made reasonable efforts to reunite her with the children. The mother cites the main opinion in H.H. v. Baldwin County Department of Human Resources, 989 So. 2d 1094, 1103 (Ala. Civ. App. 2007) (opinion on return to remand) (per Moore, J., with two judges concurring in the result), for the proposition that DHR must make reasonable efforts to reunite a child with a parent. That opinion explains:

"The natural starting point in any fair and serious attempt to rehabilitate the parent and to reunite the parent with the child is identification of that characteristic, conduct, or circumstance that renders the parent unfit or unable to discharge his or her parental responsibilities to the child. Once DHR identifies the source of parental unfitness, the overarching goal of family reunification requires DHR to communicate its concerns to the parent and to develop a reasonable plan with the parent that is tailored toward the particular problem(s) preventing the parent from assuming a proper parental role."

H.H. v. Baldwin Cnty. Dep't of Hum. Res., 989 So. 2d at 1105.

The mother contends in her appellate brief that DHR did not tailor its reunification services to address the reasons and problems that resulted in the removal of the children from her custody. The mother contends that DHR was concerned about her lack of protective capacity

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but that it did not provide services designed to address that issue. However, DHR offered the mother parenting classes. Although the mother maintains that she attended those classes, she failed to present any evidence either to DHR or to the juvenile court indicating that she had taken the parenting class offered by DHR; instead, she presented evidence indicating that she had taken a different, online class.

Also, the record indicates that the mother was using cocaine and marijuana when DHR became involved with the family. The mother testified that she had continued to use marijuana until a month before the start of the termination-of-parental-right hearing, and, she said, she had used cocaine until the fall of 2020. Thus, the evidence supports the conclusion that the mother's substance abuse might have impacted her protective capacities, resulting in her failure to adequately protect N.H. from abuse. DHR also offered the mother services to address her substance-abuse issues, but the mother did not participate in those services. DHR also offered the mother services to address possible mental-health issues, but the mother did not attempt to take advantage

of those services until after DHR had filed its termination-of-parental-rights petitions.¹

The mother contends in her appellate brief that there had been a breakdown in communication with her previous social worker, that it is "unclear" whether DHR communicated to her the availability of counseling, and that it was equally unclear what efforts Jackson, the new social worker, had made to contact her. However, the notes from the individualized-service-plan ("ISP") meetings indicate the goals for the mother and identify the counselor to whom DHR had referred the mother.² The mother's own testimony was that she stopped making efforts to reunite with the children when she believed that DHR was not

¹The mother alleges that DHR did not provide her services designed to assist her with housing or employment. However, nothing in the record indicates that DHR identified the mother's housing or employment as problematic. The record indicates that the mother has maintained housing and employment throughout DHR's involvement with the family.

²The mother also criticizes DHR for conducting an ISP meeting the same week as the termination-of-parental-rights hearing, arguing that it indicates that DHR had not "exhausted" its efforts to reunite her with the children. However, DHR guidelines require that ISP meetings be conducted, and we do not interpret DHR's continued attempts to provide services to the mother as an indication that it had not adequately made those efforts earlier.

assisting her. Also, the record supports the conclusion that the juvenile court did not find the mother's allegations about her contacts with DHR to be credible. It is the province of the juvenile court, as the trier of fact, to observe the witnesses as they testify and to assess their demeanor and credibility. Ex parte Fann, 810 So. 2d 631, 633 (Ala. 2001).

"Because appellate courts do not weigh evidence, particularly when 'the assessment of the credibility of witnesses is involved,' Knight [v. Beverly Health Care Bay Manor Health Care Ctr.], 820 So. 2d [92,] 102 [(Ala. 2001)], we defer to the trial court's factual findings. 'The ore tenus rule reflects this deference; it accords a presumption of correctness to the trial court's findings because of that court's unique ability to observe the demeanor of witnesses.' Id.; see also Fitzgerald v. Jeter, 428 So. 2d 84, 85 (Ala. Civ. App. 1983), and Ex parte Fann, 810 So. 2d 631, 633 (Ala. 2001)."

J.C. v. State Dep't of Hum. Res., 986 So. 2d 1172, 1185 (Ala. Civ. App. 2007).

The juvenile court specifically noted in its judgments that, in deciding to terminate the mother's parental rights, it had considered its evaluation of the credibility of the witnesses at the termination-of-parental-rights hearing. The record indicates that the mother did not comply with DHR's reunification efforts, and it supports the conclusion that the mother's explanations for her failure to do so were not credible. Given the evidence in the record on appeal, that the mother has not

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demonstrated that the juvenile court erred in determining that DHR made reasonable efforts to reunite the mother with the children.

The mother also argues that the juvenile court erred in determining that the children were dependent and that there were grounds under § 12-15-319 warranting the termination of her parental rights; we address those arguments together. A "dependent child" includes one:

"1. Whose parent, legal guardian, legal custodian, or other custodian subjects the child or any other child in the household to abuse, as defined in Section 12-15-301[, Ala. Code 1975,] or neglect as defined in Section 12-15-301, or allows the child to be so subjected.

"2. Who is without a parent, legal guardian, or legal custodian willing and able to provide for the care, support, or education of the child.

"....

"6. Whose parent, legal guardian, legal custodian, or other custodian is unable or unwilling to discharge his or her responsibilities to and for the child.

"....

"8. Who, for any other cause, is in need of the care and protection of the state."

§ 12-15-102(8), Ala. Code 1975.

Section 12-15-319 sets forth a number of bases upon which a juvenile court may rely in determining whether to terminate parental

rights. In this case, the juvenile court cited the mother's failure to adjust her circumstances to meet the needs of the children, see § 12-15-319(a)(12), and it found that she was either unwilling or unable to properly discharge her responsibilities to the children, see § 12-15-319(a).

The record establishes that N.H. was ten years old when she was repeatedly raped by Q.A., the mother's husband, while living in the mother's home. N.H. reported that she had informed the mother and the maternal grandmother of the sexual abuse she had suffered at the hands of Q.A., but the mother denied that N.H. had informed her of the abuse. The juvenile court was in the best position to evaluate the mother's credibility on that issue. Ex parte Fann, supra. Further, by her own admission, the mother did not believe that Q.A. had raped N.H. until after she learned the result of the test establishing Q.A.'s paternity of N.H.'s child. Thus, the juvenile court could have determined that the mother had heard, but had not believed, N.H.'s allegations against Q.A.

We also note that the mother tested positive for, and admitted that she was using, both cocaine and marijuana at the time DHR became involved with the family. The mother admitted using cocaine up until one year before the start of the termination-of-parental-rights hearing on

September 21, 2021; assuming that the mother was being truthful that she had stopped using cocaine, her admission established that she had continued to use that illegal drug for approximately one year after the children were removed from her home. The mother also acknowledged that she had continued to use marijuana until shortly before the start of the termination-of-parental-rights hearing. Thus, the evidence supports the conclusion that the mother had an ongoing, untreated substance-abuse problem.

The mother contends in her appellate brief that she "was making some progress." However, the record indicates that the mother began DHR-recommended counseling only after DHR had filed its termination-of-parental-rights petitions and that, at the time of the termination-of-parental-rights hearing, she had attended only three counseling sessions. Also, at the time of the termination-of-parental-rights hearing, the mother had not completed any substance-abuse-treatment programs. She had failed to submit to drug screens for much of 2021, and she admitted that she had last used marijuana approximately a month before the start of the termination-of-parental-rights hearing. The mother stated that she had enrolled in a four-hour online substance-abuse class

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immediately before the start of the termination-of-parental-rights hearing. Although she claimed to have completed a DHR-recommended parenting class, the mother provided no proof, other than her testimony, indicating that she had done so. Instead, the mother presented evidence indicating that, immediately before the start of the termination-of-parental-rights hearing, she had participated in an online parenting class that had not been previously authorized or approved by DHR. Thus, the evidence supports the conclusion that the mother's circumstances at the time of the termination-of-parental-rights hearing were similar to her circumstances when DHR became involved with the family. Accordingly, we agree with the juvenile court that the children remained dependent as of the time of the termination-of-parental-rights hearing.

The mother contends in her appellate brief that the progress she had made indicated that she was willing to adjust her circumstances to meet the needs of the children. As indicated above, however, the mother did not comply with reunification services. The mother first made some efforts to comply with those services after DHR had filed its termination-of-parental-rights petitions. The evidence in the record also supports an inference that, rather than complying with DHR-offered services, the

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mother elected to take brief online classes in the month before the first day of the termination-of-parental-rights hearing. "[T]he juvenile court could have determined that, to the extent the mother may have allegedly improved her condition, those efforts were merely last-minute efforts undertaken in anticipation of the impending termination-of-parental-rights trial," A.M.F. v. Tuscaloosa Cnty. Dep't of Hum. Res., 75 So. 3d 1206, 1213 (Ala. Civ. App. 2011), and, therefore, the juvenile court could have found those efforts to be unpersuasive in support for her contention that she had adjusted her circumstances to meet the needs of the children. We cannot say that the mother has demonstrated that the juvenile court erred in finding the children dependent and determining that the evidence supported a termination of her parental rights.

The mother also contends that the juvenile court erred in determining that there were no viable alternatives to the termination of her parental rights. In this case, however, Jackson testified regarding the relatives that DHR had investigated as possible placements. One of those relatives, a paternal grandmother, was deemed to be unsuitable as a custodian; the other relatives were all either unable or unwilling to serve as a placement for one or both of the children.

The mother also contends that allowing her additional time for reunification could serve as a viable alternative to termination. However, generally, leaving a child in foster care for an indefinite period in order for a parent to continue to attempt reunification efforts is not a viable alternative to the termination of parental rights. K.J. v. Pike Cnty. Dep't of Hum. Res., 275 So. 3d 1135, 1147 (Ala. Civ. App. 2018); B.M. v. Jefferson Cnty. Dep't of Hum. Res., 183 So. 3d 157, 161 (Ala. Civ. App. 2015). In these cases, DHR had been investigating and had been involved with the family since October 2019, and the children had been in foster care since December 2019. The mother did not make any significant effort to comply with reunification services. At the time of the entry of the judgments terminating the mother's parental rights, the children had been in foster care for two years.

"'... "We have held that, 'at some point, [a child's] need for permanency must outweigh repeated efforts by DHR to rehabilitate' a parent. N.A. v. J.H., 571 So. 2d 1130, 1134 (Ala. Civ. App. 1990) (citing § 26-18-7(b)(4), Ala. Code 1975). Further, '[i]n R.L.B. v. Morgan County Department of Human Resources, 805 So. 2d 721, 725 (Ala. Civ. App. 2001), this court held that maintaining a child in foster care indefinitely is not a viable alternative to termination of parental rights.' T.G. v. Houston County Dep't of Human Res., [39] So. 3d [1146, 1152] (Ala. Civ. App. 2009)....'"

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B.M. v. Jefferson Cnty. Dep't of Hum. Res., 183 So. 3d at 161 (quoting Jefferson Cnty. Dep't of Hum. Res. v. L.S., 60 So. 3d 308, 316 (Ala. Civ. App. 2010), quoting in turn Montgomery Cnty. Dep't of Hum. Res. v. W.J., 34 So. 3d 686, 693 (Ala. Civ. App. 2009)).

Given the facts of this case and the juvenile court's factual findings, we cannot say that the juvenile court erred in determining that there were no viable alternatives to the termination of the mother's parental rights. B.M. v. Jefferson Cnty. Dep't of Hum. Res., supra; K.J. v. Pike Cnty. Dep't of Hum. Res., supra.

We affirm the juvenile court's judgments.

2210300 -- AFFIRMED.

2210301 -- AFFIRMED.

Hanson and Fridy, JJ., concur.

Moore and Edwards, JJ., concur in the result, without opinions.