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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2023-2024

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CL-2023-0179

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M.P.

v.

DeKalb County Department of Human Resources

Appeal from DeKalb Juvenile Court  
(JU-18-205.03)

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CL-2023-0180

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M.P.

v.

DeKalb County Department of Human Resources

CL-2023-0179, CL-2023-0180, CL-2023-0181, CL-2023-0182, CL-2023-0183, CL-2023-0184

**Appeal from DeKalb Juvenile Court  
(JU-18-206.03)**

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**CL-2023-0181**

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**M.P.**

**v.**

**DeKalb County Department of Human Resources**

**Appeal from DeKalb Juvenile Court  
(JU-18-207.04)**

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**CL-2023-0182**

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**M.P.**

**v.**

**DeKalb County Department of Human Resources**

**Appeal from DeKalb Juvenile Court  
(JU-20-281.02)**

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**CL-2023-0183**

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**M.P.**

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v.

**DeKalb County Department of Human Resources**

**Appeal from DeKalb Juvenile Court  
(JU-20-282.02)**

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**CL-2023-0184**

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**M.P.**

v.

**DeKalb County Department of Human Resources**

**Appeal from DeKalb Juvenile Court  
(JU-22-73.02)**

FRIDY, Judge.

M.P. ("the mother") appeals from judgments of the DeKalb Juvenile Court ("the juvenile court") terminating her parental rights to her six children: J.G., P.P., C.V., N.S., S.S., and A.S.<sup>1</sup> We affirm the juvenile court's judgments pertaining to J.G., C.V., N.S., S.S., and A.S. We reverse

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<sup>1</sup>The judgments also terminated the parental rights of the children's fathers; however, the fathers have not appealed from those judgments.

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the juvenile court's judgment pertaining to P.P., and we remand that cause to the juvenile court.

### Background

On July 29, 2022, the DeKalb County Department of Human Resources ("DHR") filed petitions seeking the termination of the mother's parental rights to her six children. The juvenile court held a termination-of-parental-rights hearing regarding all six petitions on March 15, 2023. On March 16, 2023, the juvenile court entered judgments terminating the mother's parental rights to each of the children. The mother filed motions to alter, amend, or vacate the judgments, which were denied. The mother appeals.

When the cases were tried, the mother was thirty years old. She is the biological mother of the children. The children's ages range from thirteen years old to just over a year old.

The mother is married to A.P., who is a presumed father of the five youngest children because they were born during his marriage to the mother. See § 26-17-204(a)(1), Ala. Code 1975. A.P. is the biological father of only the twelve-year-old child, P.P. In 2021, DHR foster-care worker Ashley Bell contacted A.P., who had been living in Pennsylvania,

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regarding his children's foster-care status. A.P. agreed to complete one drug screening and tested positive for methamphetamine. After that positive drug-screen result, A.P. informed Bell that he no longer wished to participate in any parenting services or reunification efforts.

T.S. is the biological father of J.G., the mother's oldest child, who was born before the mother married A.P. When the cases were tried, T.S. was incarcerated. Bell testified that she had informed T.S. in 2022 that DHR had placed J.G. in foster care. T.S. told Bell that he did not wish to be involved in the case, at least at that point.

M.V. is the biological father of C.V. According to testimony at trial, he was in jail at the time of trial. No evidence was presented as to whether he was informed that C.V. had been placed in foster care or whether he wanted to be involved in the case.

The mother currently resides with her boyfriend, R.S. ("the boyfriend"), who, the mother said, is the biological father of the three youngest children, N.S., S.S., and A.S. When the juvenile court tried these actions, the boyfriend had seven criminal charges pending against him, including two felony charges. The boyfriend and the mother have a history of abusing alcohol and engaging in domestic violence. The

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boyfriend has resided with the mother periodically since 2018. When not residing with the mother, the boyfriend lives with another woman in Pisgah.

DHR's involvement with the family began in 2018, when the children arrived home from school and could not enter the house because the doors were locked. The mother and the boyfriend were found inside the house, passed out and under the influence of alcohol. DHR placed the children in foster care. It assigned Shay Mills, a DHR social worker, to the case and directed the mother and the boyfriend to comply with counseling and parenting services, color-code drug testing, drug assessments, and mental-health assessments. Both the mother and the boyfriend tested positive for alcohol at the beginning of the case, but they eventually tested negative. DHR returned the children to the mother and closed the case in April 2019.

In October 2020, DHR became involved with the mother and the boyfriend again due to domestic violence between them. Concerns were also noted that in May 2020, N.S., who was still very young, had ingested medication that had not been safely secured and had been taken to an emergency room for treatment. Around that time, a safety plan had been

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put into place, requiring that the boyfriend not be around the children because of domestic-violence concerns. Mills investigated, and both the mother and the boyfriend were "indicated" for inadequate shelter and inadequate supervision. In addition, it was determined that the boyfriend had been around the children, despite the safety plan.

From October 2020 to December 2021, DHR placed all six children back in foster care. During that period, DHR directed the mother and the boyfriend to comply with parenting and counseling services, color-code drug testing, and drug assessments. DHR also directed the mother to receive mental-health treatment. The mother and the boyfriend complied with those services, and DHR returned the children to the mother's custody in December 2021.

In February 2022, DHR received a report that N.S. had ingested and overdosed on medication for the second time. N.S. was subsequently transported to the hospital via ambulance to receive medical treatment. DHR returned the children to foster care for a third time after that incident.

From February 2022 to July 29, 2022 -- when DHR petitioned to terminate the mother's parental rights -- DHR directed the mother to

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maintain her mental health and to comply with color-code drug testing. DHR also required the boyfriend to comply with color-code drug testing, to participate in parenting and counseling services, to maintain a safe and stable home, and to become financially stable via employment. As of the date of trial, the mother and the boyfriend had participated in parenting and counseling services. However, Bell testified that the mother had not completed any drug screens after June 2022 and had not complied with treatment at the mental-health facility to which DHR had referred her.

Bell testified that she did not feel comfortable returning the children to the mother and the boyfriend because of the mother and the boyfriend's continued domestic violence, the boyfriend's inconsistent drug screenings, and the mother's mental-health problems. She testified that the mother and the boyfriend had failed to reach their individualized-service-plan ("ISP") goals over the course of two years. She stated that the mother had been diagnosed with post-traumatic stress disorder ("PTSD"), major depressive disorder, mixed obsessional thoughts, and alcohol abuse. Additionally, Bell testified that the children



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had informed her on different occasions that they did not feel safe in the presence of the boyfriend.

Bell testified that, shortly before trial, the mother and the boyfriend moved from Fort Payne into a larger rental home in Gadsden that appeared to Bell to be appropriate. In addition to renting a larger home, the mother had paid child support. The mother had maintained employment since September 2022, and owed \$341 in child-support payments at the time of trial in March 2023. Additionally, the mother had sent money to the children for earning good grades and for their birthdays, and she had purchased supplies for her younger children. Bell testified that the mother had exercised supervised visitation with her children but that there had been times where she was inconsistent with those visits.

The mother agreed with her attorney during her testimony that she had maintained a bond with all of her children. The mother described an interaction she had with P.P. at a supervised visit: "[P.P.], I thought, was going to throw me in the floor this ... visit because she hasn't seen me in two weeks. She said, 'I want my mama,' and she ... literally sat on my lap." Additionally, the children's maternal aunt S.G. ("the maternal

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aunt"), the wife of the mother's brother F.G. ("the maternal uncle"), described the relationship between the mother and P.P. during her testimony:

"I really feel like -- because [P.P. and the mother], they -- they have, like, this bond, and when [P.P.] get[s] -- at one time, that little girl would sit in the floor and hiss at you like a cat, and [the mother] was the only one that could calm her down. [The mother] just ... can look at her and, like, hey, look at me. Calm down. And she's fine."

At the time of the trial, the six children resided in foster homes, with two of the children at one foster home, two of the children at a second foster home, and N.S. and P.P. each residing in other, separate foster homes. P.P. had been placed in a separate foster home because, in November 2022, she had displayed homicidal behaviors toward a child in the foster home and had been moved to a facility to receive psychiatric care. P.P. was diagnosed with a mood disorder, reactive-attachment disorder ("RAD"), and PTSD, for which she takes prescription medication. Although P.P. had been placed in a new foster home after she had been discharged from the facility, P.P.'s new foster parents requested that DHR move her out of their foster home.

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For five of the children, DHR established permanency plans of adoption by their current foster parents. Bell agreed with the DHR attorney that those adoption plans were the best and least restrictive way to provide those children with permanency. The permanency plan for the remaining child, P.P., was adoption with no identified resource. Bell testified that she believed that DHR had exhausted its efforts to find any relative placement and had exhausted its efforts to rehabilitate the mother and the boyfriend.

Bell testified that DHR had assessed the relatives of the mother, T.S., and A.P. as potential relative placements. After contacting those relatives, including the maternal uncle, Bell found no relative who was willing or able to serve as relative placements for any of the six children.

The maternal aunt testified that she had contacted DHR in September 2022 stating that she and the maternal uncle wanted to serve as relative placement for J.G., C.V., and N.S. She further testified that her telephone call in September 2022 and her email to Bell in January 2023 had gone unanswered. Bell, however, testified that the maternal aunt had not contacted her recently. She stated that she had contacted the maternal aunt in 2021 but that she had had no contact with the

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maternal aunt after that. She said that in her contact with the maternal uncle, he had stated that he did not want to serve as a placement for the children.

### Standard of Review

This court reviews a juvenile court's judgment terminating a parent's parental rights to determine whether the judgment is supported by clear and convincing evidence. See J.H. v. Bibb Cnty. Dep't of Hum. Res., 261 So. 3d 1229, 1232 (Ala. Civ. App. 2018). 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 of the conclusion." L.M. v. D.D.F., 840 So. 2d 171, 179 (Ala. Civ. App. 2002) (quoting § 6-11-20(b)(4), Ala. Code 1975). See also Ex parte McInish, 47 So. 3d 767, 776 (Ala. 2008).

Our task in reviewing a judgment terminating parental rights is not to reevaluate the evidence but rather "to specifically consider whether the juvenile court could have reasonably reached the conclusion that it did." Ex parte Bodie, [Ms. 2200469, Oct. 14, 2022] \_\_ So. 3d \_\_, \_\_ (Ala. 2022). When the juvenile court's findings are based upon ore tenus

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evidence, we presume those findings are correct unless they are plainly and palpably wrong. See C.S.B. v. State Dep't of Hum. Res., 26 So. 3d 426, 429 (Ala. Civ. App. 2009); Ex parte T.V., 971 So. 2d 1, 9 (Ala. 2007). We review a juvenile court's conclusions of law de novo. See J.W. v. C.B., 68 So. 3d 878, 879 (Ala. Civ. App. 2011).

### Analysis

Terminating a parent's legal relationship with his or her child is the most drastic and permanent form of governmental interference with parental rights. See Santosky v. Kramer, 455 U.S. 745, 758-59 (1982). Indeed, our supreme court has stated in no uncertain terms that a juvenile court may terminate a parent's fundamental right to parent his or her children "only in the most egregious of circumstances." Ex parte Beasley, 564 So. 2d 950, 952 (Ala. 1990). Our legislature, as well, has recently declared the fundamental nature of parents' rights to control the education, upbringing, care, and supervision of their children by enacting Act No. 2023-555, Ala. Acts 2023, which, in § 1, enshrines in our statutory law protection against unwarranted government intrusion into the parent-child relationship. (Act No. 2023-555 became effective September 1, 2023, and is codified at § 26-1-6, Ala. Code 1975.)

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Given the fundamental nature of parental rights, see Troxel v. Granville, 530 U.S. 57, 80 (2000) (Thomas, J., concurring) (noting that "parents have a fundamental constitutional right to rear their children"); Ex parte J.E., 1 So. 3d 1002, 1006 (Ala. 2008), a court is bound by the Due Process Clause of the Fourteenth Amendment to the United States Constitution (and now by Alabama statutory law as well) to apply strict scrutiny to government action that would terminate those rights, see Troxel, 530 U.S. at 66 (holding that the "fundamental right of parents to make decisions concerning the care, custody, and control of their children" is protected by the Due Process Clause of Fourteenth Amendment); Ex parte T.V., 971 So. 2d at 9 ("[T]ermination of parental rights ... implicates due process."); D.J. v. Etowah Cnty. Dep't of Hum. Res., 351 So. 3d 1067, 1074 (Ala. Civ. App. 2021) (noting that termination of parental rights implicates federal due-process protections); A.D.B.H. v. Houston Cnty. Dep't of Hum. Res., 1 So. 3d 53, 65 (Ala. Civ. App. 2008) (Bryan, J., concurring specially) (explaining that strict-scrutiny analysis applies to termination of parental rights); Ex parte Bodie, [Ms. 2200469, Oct. 14, 2022] \_\_ So. 3d \_\_, \_\_ (Ala. 2022) (Parker, C.J., concurring in part and concurring in the result); § 26-1-6(b), Ala. Code 1975.

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In applying strict scrutiny to the government's claim seeking termination of a parent's parental rights, a court first asks whether the termination the government seeks furthers a compelling governmental interest. See J.B. v. DeKalb Cnty. Dep't of Hum. Res., 12 So. 3d 100, 115 (Ala. Civ. App. 2008) (plurality opinion); Ex parte Bodie, \_\_\_ So. 3d at \_\_\_ (Parker, C.J., concurring in part and concurring in the result). Such compelling interests may include, for example, protecting children from abuse and neglect and establishing stable and permanent home environments for at-risk children. See Ex parte Bodie, \_\_\_ So. 3d at \_\_\_ (Parker, C.J., concurring in part and concurring in the result).

Once the court determines that termination of the parent's parental rights advances a compelling governmental interest, the court then must consider whether the government seeks to advance its interest in a manner that infringes the parent's parental rights in the narrowest manner possible. See Montgomery Cnty. Dep't of Hum. Res. v. N.B., 196 So. 3d 1205, 1214 (Ala. Civ. App. 2015) ("A state may only interfere with [parental rights] to achieve a compelling governmental objective using the most narrowly tailored means available. Roe v. Conn., 417 F. Supp. 769 (M.D. Ala. 1976).'" (quoting J.B. v. DeKalb Cnty. Dep't of Hum. Res.,

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12 So. 3d at 115 (plurality opinion)); § 26-1-6(b). "[I]f a court may achieve the compelling governmental objective at stake through a means other than the drastic action of permanently revoking the custodial rights of the parent, a juvenile court cannot terminate parental rights." J.G. v. Lauderdale Cnty. Dep't of Hum. Res., [Ms. 2210452, Jan. 13, 2023] \_\_\_ So. 3d \_\_\_, \_\_\_ (Ala. Civ. App. 2023). A juvenile court applies this "narrowly tailored" analysis by considering whether there exists any viable alternative to termination of parental rights to achieve the government's compelling interest. See Ex parte Bodie, \_\_\_ So. 3d at \_\_\_ (Parker, C.J., concurring in part and concurring in the result); S.P. v. Madison Cnty. Dep't of Hum. Res., 315 So. 3d 1126, 1131 (Ala. Civ. App. 2020); J.B. v. DeKalb Cnty. Dep't of Hum. Res., 12 So. 3d at 115 (plurality opinion).

In addition to analyzing a government's claim seeking termination of a parent's parental rights under the strict-scrutiny analysis required by the federal Constitution and the newly enacted state law recognizing the fundamental nature of parental rights, a juvenile court faced with such a claim must determine whether there exist statutory grounds for



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terminating parental rights. In that regard, § 12-15-319(a), Ala. Code 1975, provides:

"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."

The statute provides a list of thirteen nonexhaustive factors a court should consider in determining whether grounds exist for terminating parental rights. In addition to consideration of those factors, the statute makes clear that, in deciding whether to terminate parental rights, a court should consider the best interests of the child. § 12-15-319(a).

The mother's first contention on appeal relates to the termination of her parental rights to her daughter P.P., a twelve-year-old with special needs. Although the mother does not contest the juvenile court's finding of a statutory ground for the termination of her parental rights as to P.P., she argues that there were viable alternatives to termination. The mother points out that P.P.'s permanency plan at the time of the trial was adoption with no identified resource, that she had been in three

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traditional foster homes during the pendency of the case, that she had exhibited homicidal behaviors toward another child at one of the foster homes, and that her current foster parents wanted her removed from their home. The mother argues that there was no clear and convincing evidence that P.P. would ever be adopted. Additionally, she argues that she and P.P. have maintained a strong emotional bond that benefits P.P. She argues that maintaining the status quo with P.P. by allowing P.P. to remain in foster care while continuing supervised visits with the mother is a viable alternative for P.P. and is in P.P.'s best interests.

In support of her argument, the mother relies on this court's decision in T.W. v. Calhoun County Department of Human Resources, [Ms. CL-2022-0694, June 2, 2023] \_\_\_ So. 3d \_\_\_ (Ala. Civ. App. 2023), in which this court reversed a judgment terminating parental rights. In T.W., the Calhoun County DHR established a permanency plan for the mother's two children, both of whom had special needs, as adoption with no identified resource. During the trial proceedings, the Calhoun County DHR failed to present evidence showing that it had made any efforts to identify an adoptive resource for the children. The Calhoun County DHR also failed to provide evidence of the likelihood of the children being

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adopted in the near future. On appeal from the trial court's judgment terminating the mother's parental rights, the mother argued that it was not apparent that her children would obtain permanency and stability by terminating her parental rights, and she argued that maintaining the status quo of allowing her to visit with the children as they remained in foster care was a viable alternative to termination.

This court agreed with the mother's contention and reversed the trial court's judgment terminating her parental rights. We recognized the general rule that maintaining a child in foster care indefinitely will not provide the child with permanency and, as a result, generally cannot serve as a viable alternative to termination of parental rights. However, we noted that the Calhoun County "DHR did not identify an adoptive resource for the children" and that the record supported the mother's contention that it was "'by no means apparent that the children would obtain permanency if the mother's parental rights were terminated.'" Id. at \_\_\_. We recognized that it was "undisputed that [the Calhoun County] DHR had not identified an adoptive resource for the children" and that the Calhoun County "DHR did not present any 'certain testimony regarding the children's prospects for adoption.'" Id. at \_\_\_ (quoting C.M.

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v. Tuscaloosa Cnty. Dep't of Hum. Res., 81 So. 3d 391, 398 (Ala. Civ. App. 2011)). "Most particularly," we wrote, the Calhoun County "DHR did not offer any testimony or other evidence regarding the adoptability of the children or the likelihood that adoption would be achieved in the foreseeable future." Id. at \_\_\_.

Citing five cases as examples, we wrote in T.W. that we had "repeatedly emphasized that, before proceeding to terminate the parental rights of the parents of special-needs children, a juvenile court must consider whether the children will likely achieve permanency through adoption." Id. at \_\_\_. For a juvenile court to be able to make such a determination, we wrote, "it was incumbent upon [the Calhoun County] DHR to present clear and convincing evidence of the viability of adoption so that the juvenile court could make an informed evaluation and decision ...." Id. at \_\_\_. However, we noted, the Calhoun County "DHR did not even attempt to introduce any evidence on that point" Id. at \_\_\_.

Ultimately, based on the evidence presented at trial -- showing that the children shared a beneficial emotional bond with the mother, that the likelihood that they would achieve permanency through adoption was speculative, and that they could continue in foster care, safe from any

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threat of parental harm, while enjoying supervised visitation with the mother -- we held in T.W. that the juvenile court should have maintained the status quo of foster-care placement with supervised visitation as a viable alternative to the termination of the mother's parental rights. We further explained, however, in response to concerns that the guardian ad litem had raised, that our decision to reverse the judgment terminating the mother's parental rights would not "force the children to languish in foster care indefinitely." Id. at \_\_\_. We noted that adoption remained the children's permanency plan until changed by the trial court; that, if the mother sufficiently rehabilitated, the trial court could return the children to her custody; or that, if the Calhoun County DHR identified an adoptive resource, it could again seek to terminate the mother's parental rights based on that change in circumstances.

The operative facts in this case relating to P.P. are remarkably similar to the material facts in T.W. Like the children at issue in T.W., P.P. is a special-needs child because she has been diagnosed with RAD, PTSD, and a mood disorder for which she takes prescription medication. See Ala. Admin. Code (Dep't of Hum. Res.), r. 660-5-22-.06(2)(a)2. (defining a special-needs child as one who, among other things, is

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receiving ongoing medical treatment for an emotional or behavioral issue). As in T.W., P.P. is currently in foster care, and the mother exercises supervised visitation with her. The evidence reflects that P.P. shares a beneficial bond with the mother. According to testimony, P.P. is affectionate with the mother during their visits, sits in her lap, and visibly calms down in the presence of her mother. As was the case in T.W., DHR here established a permanency plan for P.P. as adoption with no identified resource, but it failed to present evidence indicating that P.P. was likely to be adopted or to otherwise obtain some modicum of permanency if the juvenile court terminated the mother's parental rights. Additionally, DHR failed to establish any sort of timeline for P.P.'s future adoption.

Based on the foregoing, we conclude that DHR, having already advanced the government's compelling interest in protecting P.P. from abuse and neglect by removing her from the mother's custody and placing her in foster care, failed to demonstrate by clear and convincing evidence that terminating the mother's parental rights to P.P. was necessary to advance any other compelling governmental interest, such as establishing a stable and permanent home environment for P.P. through

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adoption or otherwise. As a result, under the facts of this case, maintaining the status quo by keeping P.P. in foster care and allowing supervised visits by the mother will both protect P.P. from the threat of parental harm and serve as a "less-drastic means of securing the safety and welfare of the child," T.W., So. 3d at \_\_\_, with the result that such an arrangement constitutes a viable alternative to terminating the mother's parental rights.

As we explained in T.W., our decision to reverse the judgment terminating the mother's parental rights to P.P. will not force her "to languish in foster care indefinitely." \_\_\_ So. 3d at \_\_\_. If the mother rehabilitates herself and demonstrates that she can provide a safe and stable home environment for P.P., the juvenile court may alter the permanency plan and return P.P. to her custody. On the other hand, if the mother fails to rehabilitate herself and DHR identifies an adoptive resource for P.P., DHR may file another petition to terminate the parental rights of the mother. As things presently stand, however, clear and convincing evidence does not support the juvenile court's judgment terminating the mother's parental rights to P.P., and that judgment is due to be reversed.

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The mother next contends that there existed multiple viable alternatives to terminating her parental rights to all of her children. First, she argues that placing J.G., C.V., and N.S. with the maternal uncle and the maternal aunt and placing P.P., S.S., and A.S. with her was a viable alternative to termination. Second, she argues that placing custody of the five children other than P.P. with her was a viable alternative. Finally, she argues that placing custody of only P.P. with her constituted a viable alternative.

Because all three of the scenarios the mother posits as viable alternatives to terminating her parental rights to all of the children involve her maintaining custody of at least one and as many as five of the children, we conclude that the juvenile court reasonably could have been clearly convinced that those potential alternatives to termination were not viable. The children had been in foster care on three separate occasions since 2018 because of an unresolved pattern of inadequate supervision by the mother, domestic violence between the mother and the boyfriend, and inappropriate living conditions for the children. Bell testified during trial that she remained concerned about the pattern of domestic violence that occurs between the mother and the boyfriend, the



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boyfriend's inconsistent drug screenings, and the mother's mental-health problems. The mother and the boyfriend had failed to reach their ISP goals over the course of two years. The mother had been diagnosed with PTSD, major depressive disorder, mixed obsessional thoughts, and alcohol abuse and did not comply with treatment for her mental-health problems. Additionally, Bell testified that the children had disclosed to her that they do not feel safe in the presence of the boyfriend, with whom the mother refuses to end her relationship. Based on those facts, the juvenile court reasonably could have been clearly convinced that returning custody of one, three, or five of the children to the mother was not an alternative to terminating her parental rights that, in any sense, could be considered viable.

Regarding the first of the three alternatives the mother posits as viable, involving the maternal uncle and the maternal aunt taking custody of J.G., C.V., and N.S., the juvenile court reasonably could have been clearly convinced that that alternative was not viable for an additional reason. Although, as noted above, the maternal aunt testified that she had attempted to contact Bell on several occasions regarding receiving custody of J.G., C.V., and N.S., Bell testified that in her contact

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with the maternal uncle and the maternal aunt, they had indicated that they did not want to serve as a relative placement for the children. Bell testified, contrary to the maternal aunt, that the maternal aunt did not contact her after initially rejecting the opportunity to serve as a relative placement for the children. It was up to the juvenile court to resolve that conflict in the testimony, see Ex parte R.E.C., 899 So. 2d 272, 279 (Ala. 2004), and the juvenile court was free to credit Bell's testimony that the maternal aunt and the maternal uncle had rejected the opportunity to serve as a relative placement for the children and had never conveyed to her that they had changed their minds.

Moreover, even if the maternal aunt had attempted, as she testified, to contact Bell regarding serving as a relative placement for J.G., C.V., and N.S., the juvenile court could have found from the evidence presented that she made that contact more than four months after Bell had contacted her and the maternal uncle about taking custody of the children as a relative placement. Furthermore, DHR's permanency plan for J.G., C.V., and N.S. was adoption by their current foster parents. Under those circumstances, the juvenile court was permitted to reject the maternal uncle and the maternal aunt as candidates for obtaining legal

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guardianship of those three children. See § 12-15-319(c), Ala. Code 1975 (providing that a juvenile court can reject consideration of a relative to serve as a child's legal guardian when the relative did not attempt to care for or obtain custody of the child within four months of the child's being removed from the custody of the parents, if the removal was known to the relative, and the goal of the permanency plan for the child is adoption by the current foster parents). For this additional reason, the juvenile court was free to conclude that any custody proposal involving the maternal aunt and the maternal uncle serving as a relative placement for some of the children was not a viable alternative to terminating the mother's parental rights.

### Conclusion

Because DHR failed to prove by clear and convincing evidence that maintaining the status quo was not a viable alternative to terminating the mother's parental rights to P.P., we reverse the juvenile court's judgment pertaining to P.P. and remand the cause to the juvenile court for the entry of a new judgment consistent with this opinion. As to the other children, we affirm the juvenile court's judgments terminating the mother's parental rights.

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CL-2023-0179 -- AFFIRMED.

CL-2023-0180 -- AFFIRMED.

CL-2023-0182 -- AFFIRMED.

CL-2023-0183 -- AFFIRMED.

CL-2023-0184 -- AFFIRMED.

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

CL-2023-0181 -- REVERSED AND REMANDED.

Moore, Edwards, and Hanson, JJ., concur.

Thompson, P.J., concurs in the result, without opinion.