

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2013

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

D.R., MOTHER OF J.M.G.R., A CHILD,

Appellant,

v.

Case No. 5D13-43

DEPARTMENT OF CHILDREN AND FAMILIES,

Appellee.

_____ /

Opinion filed April 12, 2013

Appeal from the Circuit Court
for Orange County,
Donald E. Grincewicz, Judge.

Heather Morcroft, Longwood, for
Appellant.

Karla Perkins, of the Department of
Children and Families, Miami, for
Appellee, Department of Children and
Families.

Susan W. Fox, of Fox & Loquasto,P.A.,
Orlando, for Guardian Ad Litem.

Ryan Thomas Truskoski, of Ryan Thomas
Truskoski, P.A., Orlando, for father, M.J.

PER CURIAM.

D.R., the mother of J.M.G.R., appeals the trial court's order granting permanency
of J.M.G.R. to his father M.J.¹ Mother argues that the trial court erred, as a matter of

¹ There is also a pending paternity action in which Father is seeking sole
custody.

law, when it did not allow her to present evidence that she had substantially complied with her case plan, and on the issue of whether it would be a detriment to the child to be reunified with her. We agree, and reverse for the required evidentiary hearing. See *B.W. v. Dep't of Children and Families*, 38 Fla. L. Weekly D134 (Fla. 5th DCA January 18, 2013) ("[W]here an offending parent contests the issue of 'detriment to the child,' and one or more facts are in dispute, an evidentiary hearing must be held at which both sides can adduce evidence, and adequate findings must be made to support a finding that return of the child to the mother would be detrimental"); *In re K.M. v. Dep't of Children and Family Servs.*, 86 So. 3d 556 (Fla. 2d DCA 2012) (reversing where the trial court granted permanency to the father without holding an evidentiary hearing); *E.B. v. Dep't of Children & Families*, 844 So. 2d 761 (Fla. 5th DCA 2003) (reversing and remanding for an evidentiary hearing where the father argued that the trial court did not give him an opportunity to present evidence of his efforts to comply with his case plan and that his attempts to visit with his child were thwarted by the maternal grandmother who had temporary custody).

REVERSED AND REMANDED.

LAWSON, EVANDER and BERGER, JJ., concur.