

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

In the Interest of W.B., B.B., and Be.B.,
children.
_____)
)

A.H.,)
)
)
Appellant,)
v.)
)
DEPARTMENT OF CHILDREN AND)
FAMILY SERVICES,)
)
Appellee.)
_____)

Case No. 2D05-1810

CONSOLIDATED

A.B.,)
)
)
Appellant,)
v.)
)
DEPARTMENT OF CHILDREN AND)
FAMILY SERVICES,)
)
Appellee.)
_____)

Case No. 2D05-2301

Opinion filed December 9, 2005.

Appeal from the Circuit Court for
Hillsborough County; Martha J. Cook,
Judge.

David A. Dee, Tampa, for Appellant A.H.

Norman A. Palumbo, Jr., Tampa, for
Appellant A.B.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Tanya E. DiFilippo,
Assistant Attorney General, Tampa, for
Appellee.

WALLACE, Judge.

Appellants, A.H. (the Mother) and A.B. (the Father), separately appeal from an Order of Termination of Parental Rights. The appellants' children are W.B. (born July 6, 2001), B.B. (born October 26, 2002), and Be.B (born February 28, 2004). We affirm, without discussion, the order's termination of the Mother's and the Father's parental rights to W.B. and B.B. However, we reverse the order's termination of the Mother's and the Father's parental rights to Be.B based on section 39.806(1)(e), Florida Statutes (2003). Be.B. was never declared dependent, which is a prerequisite to termination under this provision. See J.T. v. Dep't of Children & Family Servs., 819 So. 2d 270 (Fla. 2d DCA 2002). Thus section 39.806(1)(e) was not a valid legal ground for termination as to Be.B. Nevertheless, there is competent, substantial evidence to sustain the trial court's termination of the Mother's and the Father's parental rights to Be.B. under section 39.806(1)(c). Therefore, we affirm the termination of the Mother's and the Father's parental rights to Be.B., but we reverse and remand for the entry of an amended termination order removing all references to section 39.806(1)(e) that concern Be.B.

Affirmed in part, reversed in part, and remanded.

WHATLEY and VILLANTI, JJ., Concur.