

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
September 7, 2004 Session

**In re M.A.R.**

**Appeal from the Williamson County Juvenile Court  
No. 37102 Alfred Nations, Judge**

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**No. M2003-02929-COA-R3-PT - Filed October 8, 2004**

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This appeal involves the termination of a biological mother's rights regarding her nine-year-old son. After the juvenile court granted the Department of Children's Services' petition to terminate her parental rights, the mother appealed to this court asserting (1) that the court erred by failing to grant her a continuance, (2) that she was denied effective assistance of counsel, and (3) that the Department failed to prove any substantive grounds for termination by clear and convincing evidence. We have determined that the judgment terminating the mother's parental rights must be vacated because the transcript of the proceedings included in the appellate record is not a full, accurate, and complete account of the juvenile court proceedings. Without an adequate record, the mother has been deprived of her right to effective appellate review of the decision to terminate her parental rights.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court Vacated**

WILLIAM C. KOCH, JR., P.J., M.S., delivered the opinion of the court, in which WILLIAM B. CAIN and PATRICIA J. COTTRELL, JJ., joined.

Susan V. Logan, Franklin, Tennessee, for the appellant, K.R.

Paul G. Summers, Attorney General and Reporter, and Dianne Stamey Dycus, Deputy Attorney General, for the appellee, Department of Children's Services.

**MEMORANDUM OPINION<sup>1</sup>**

On September 10, 2003, the Williamson County Juvenile Court conducted a bench trial regarding the petition of the Tennessee Department of Children's Services to terminate K.R.'s parental rights to her nine-year-old son. On November 7, 2003, the court filed an order terminating

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<sup>1</sup>Tenn. Ct. App. R. 10 provides:

The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion, it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

K.R.'s parental rights. After the juvenile court denied her motion for a new trial, K.R. perfected a timely appeal. This court heard oral arguments in the case on September 7, 2004.

Following submission of the case, this court ascertained that the transcript of the September 10, 2003 proceeding filed with this court does not contain a full, accurate and complete account of the proceedings in the juvenile court on that day, and that the deficiencies in the transcript were so significant that they prevented us from addressing the issues K.R. sought to raise on appeal. We informed counsel for both parties of our concerns because of K.R.'s right to a proper transcript that would enable her to obtain effective appellate review of the decision to terminate her parental rights. *See M.L.B. v. S.L.J.*, 519 U.S. 102, 128, 117 S. Ct. 555, 570 (1996). Counsel have now agreed that the transcript does not meet the requirements of Tenn. R. App. P. 24(b).

Therefore, based on the agreement of counsel for both parties, we vacate the November 7, 2003 order terminating K.R.'s parental rights and remand the case to the juvenile court for a new trial. We tax the costs of this appeal to the Tennessee Department of Children's Services.

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WILLIAM C. KOCH, JR., P.J., M.S.