

REL: October 23, 2020

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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2020-2021

2190598, 2190599, and 2190600

S.M.

v.

Jefferson County Department of Human Resources

Appeals from Jefferson Juvenile Court
(JU-04-67621.03, JU-18-1351.01, and JU-18-1352.01)

MOORE, Judge.

S.M. ("the mother") appeals from separate orders entered by the Jefferson Juvenile Court ("the juvenile court") denying her motion, filed pursuant to Rule 60(b)(4), Ala. R. Civ. P., seeking to set aside a judgment that maintained custody of

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J.M., T.M., and Jay.M. ("the children"), who previously had been adjudicated dependent, with their maternal grandmother, B.L. ("the maternal grandmother"), and closed the children's dependency cases to further review.

Procedural History

On August 8, 2018, the Jefferson County Department of Human Resources ("DHR") filed separate petitions in the juvenile court alleging that the children were dependent. On October 31, 2018, the juvenile court determined that the children were dependent and awarded their legal custody to DHR. Subsequently, the juvenile court entered a judgment in all three cases placing the children in the physical custody of the maternal grandmother.

On January 27, 2020, the juvenile court held a review hearing. On January 28, 2020, the juvenile court entered in all three cases a single judgment noting that the children had been found dependent on October 31, 2018, awarding custody of the children to the maternal grandmother, and closing the cases to further court review.

On February 9, 2020, the mother filed in all three cases a motion for relief from the juvenile court's January 28,

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2020, judgment, pursuant to Rule 60(b)(4). That same day, the mother also filed in all three cases a postjudgment motion to alter, amend, or vacate the January 28, 2020, judgment. On February 10, 2020, she also filed in all three cases a motion for a new trial. The juvenile court entered a separate order in each case on March 5, 2020, purporting to deny all of the mother's motions; however, pursuant to Rule 1(B), Ala. R. Juv. P., the mother's motion to alter, amend, or vacate and her motion for a new trial were denied by operation of law on February 24, 2020.¹ On March 16, 2020, the mother appealed.

Discussion

Initially, this court requested letter briefs concerning the issue of the timeliness of the appeals. DHR filed a letter brief with this court; however, the mother did not file a letter brief. Thereafter, this court entered an order on June 16, 2020, holding:

"Insofar as the appeals seek review of the judgment entered on January 28, 2020, the appeals are dismissed as having been untimely filed. See

¹The 14th day following February 9, 2020, was Sunday, February 23, 2020; therefore, the mother's motion to alter, amend, or vacate was deemed denied on the following day, February 24. See Rule 1(B), Ala. R. Juv. P., and Rule 6(a), Ala. R. Civ. P.

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Rule 1(B), Ala. R. Juv. P. Insofar as the appeals seek review of the March 5, 2020, order denying the Rule 60(b), Ala. R. Civ. P., motion filed on February 9, 2020, the appeals shall proceed."

The court continues to maintain that the appeals were not timely filed with respect to the January 28, 2020, judgment. Thus, the only issue before this court is whether the juvenile court erred in denying the mother's Rule 60(b)(4) motion.

Rule 60(b)(4) provides that, "[o]n motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding ... [if] the judgment is void."

"The standard of review on appeal from the denial of relief under Rule 60(b)(4) [, Ala. R. Civ. P.,] is not whether there has been an abuse of discretion. When the grant or denial of relief turns on the validity of the judgment, as under Rule 60(b)(4), discretion has no place. If the judgment is valid, it must stand; if it is void, it must be set aside. A judgment is void only if the court rendering it lacked jurisdiction of the subject matter or of the parties, or if it acted in a manner inconsistent with due process."

Ex parte R.S.C., 853 So. 2d 228, 236 (Ala. Civ. App. 2002) (quoting Insurance Mgmt. & Admin., Inc. v. Palomar Ins. Corp., 590 So. 2d 209, 212 (Ala. 1991)). The mother argues that the

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January 28, 2020, judgment is void because, she says, the juvenile court lacked subject-matter jurisdiction.²

"'Jurisdiction is '[a] court's power to decide a case or issue a decree.' Black's Law Dictionary 867 (8th ed. 2004). Subject-matter jurisdiction concerns a court's power to decide certain types of cases. Woolf v. McGaugh, 175 Ala. 299, 303, 57 So. 754, 755 (1911) ("By jurisdiction over the subject-matter is meant the nature of the cause of action and of the relief sought." (quoting Cooper v. Reynolds, 77 U.S. (10 Wall.) 308, 316, 19 L.Ed. 931 (1870))). That power is derived from the Alabama Constitution and the Alabama Code. See United States v. Cotton, 535 U.S. 625, 630-31, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002) (subject-matter jurisdiction refers to a court's 'statutory or constitutional power' to adjudicate a case)."

Ex parte Seymour, 946 So. 2d 536, 538 (Ala. 2006).

In Alabama, juvenile courts derive their subject-matter jurisdiction primarily from Ala. Code 1975, §§ 12-15-114 through 12-15-116, which are part of the Alabama Juvenile Justice Act, Ala. Code 1975, § 12-15-101 et seq. Section 12-15-114(a) provides, in pertinent part, that "[a] juvenile court shall exercise exclusive original jurisdiction of

²The mother also argues that the juvenile court acted in a manner inconsistent with due process. To some extent, her argument on this point overlaps with her jurisdictional argument, which, as explained *infra*, we find to be meritorious. We, therefore, do not address her due-process argument because it is not necessary to do so in order to dispose of these appeals.

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juvenile court proceedings in which a child is alleged ... to be dependent" In the proceedings below, the juvenile court adjudicated allegations that the children were dependent, a matter within its subject-matter jurisdiction under § 12-15-114(a). However,

"[j]uvenile courts are purely creatures of statute and have extremely limited jurisdiction. See Ex parte K.L.P., 868 So. 2d 454, 456 (Ala. Civ. App. 2003). That limited jurisdiction allows a juvenile court to make a disposition of a child in a dependency proceeding only after finding the child dependent. V.W. v. G.W., 990 So. 2d 414, 417 (Ala. Civ. App. 2008) (quoting K.B. v. Cleburne County Dep't of Human Res., 897 So. 2d 379, 389 (Ala. Civ. App. 2004) (Murdock, J., concurring in the result)) ("[I]n order to make a disposition of a child in the context of a dependency proceeding, the child must in fact be dependent at the time of that disposition.").'

"T.B. v. T.H., 30 So. 3d 429, 431 (Ala. Civ. App. 2009) (some emphasis added)."

M.D. v. S.C., 150 So. 3d 210, 212 (Ala. Civ. App. 2014). A juvenile court lacks jurisdiction to dispose of the custody of a child alleged to be dependent based on a dependency determination entered years earlier unless the juvenile court also finds that the child remains dependent at the time of disposition. Id.

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In these cases, the juvenile court did not expressly find that the children remained dependent at the time of the entry of the January 28, 2020, judgment. In that judgment, the juvenile court determined only that it had previously found the children to be dependent as of October 31, 2018, which is not sufficient under M.D. and the cases relied upon therein. Although the judgment signed by the juvenile-court judge, which was on a preprinted form, included a box providing "Court determines the child(ren) remain Dependent at the present time" (emphasis in original), the judge did not check that box.

"[I]n a situation in which the evidence clearly supports a dependency determination but in which the juvenile court has omitted an explicit dependency finding, this court has held that a dependency determination may be implicit in the judgment." H.C. v. S.L., 251 So. 3d 793, 794 (Ala. Civ. App. 2017). In its brief to this court, DHR concedes that the juvenile court did not receive any evidence during the January 27, 2020, review hearing that could sustain an implicit finding of the continuing dependency of the children. Thus, we conclude that the January 28, 2020, judgment does not

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impliedly find that the children remained dependent at the time of its entry.

Conclusion

In the absence of a finding that the children continued to be dependent at the time of the disposition of their custody, the juvenile court lacked jurisdiction to make that custody disposition and, thus, the January 28, 2020, judgment is void. Accordingly, the juvenile court erred in denying the mother's Rule 60(b)(4) motion. The juvenile court's March 5, 2020, orders denying the mother's Rule 60(b)(4) motion are reversed, and the cases are remanded. On remand, the juvenile court is directed to grant the mother's Rule 60(b)(4) motion seeking to set aside the January 28, 2020, judgment and to conduct such further proceedings as are consistent with this opinion. See, e.g., J.B. v. Jefferson Cnty. Dep't of Human Res., 252 So. 3d 674 (Ala. Civ. App. 2017) ("revers[ing] [a]n order and remand[ing] the cause for an evidentiary hearing regarding the issue whether the child remain[ed] dependent under Alabama law and, if so, for an appropriate custodial disposition," id. at 676, when "[b]oth [the Department of Human Resources] and the [child's] guardian ad litem, in their letter briefs, ... confessed the existence of error as to that

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order because ... the mother was entitled to be heard as to the issue of the child's continued dependency, yet the juvenile court did not conduct a full evidentiary hearing when the child's custody was finally disposed and the case was closed, id. at 675").

2190598 -- REVERSED AND REMANDED WITH INSTRUCTIONS.

2190599 -- REVERSED AND REMANDED WITH INSTRUCTIONS.

2190600 -- REVERSED AND REMANDED WITH INSTRUCTIONS.

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