

REL: 7/27/12

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ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2012

2110118

Kristina Lynn Cagle

v.

Robert Cameron Cagle and Carol Denise Cagle

Appeal from Winston Circuit Court
(DR-11-17)

BRYAN, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(F), Ala. R. App. P.; Gonzalez v. Blue Cross/Blue Shield of Alabama, 760 So. 2d 878, 883 (Ala. Civ. App. 2000).

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Thompson, P.J., and Pittman and Thomas, JJ., concur.

Moore, J., dissents, with writing.

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MOORE, Judge, dissenting.

I respectfully dissent from the main opinion's affirmance of the trial court's judgment.

Kristina Lynn Cagle ("the mother") appeals from a judgment divorcing her from Robert Cameron Cagle to the extent that it awarded custody of the parties' children to the intervenor, Carol Denise Cagle, the children's paternal grandmother. I conclude that the mother's argument in her brief is sufficient to place the issue of the sufficiency of the evidence before this court, and I agree with the mother that there was not clear and convincing evidence that the mother was unfit or unsuited for custody so as to support an award of custody to a nonparent. Serio v. Serio, 3 So. 3d 937, 938-39 (Ala. Civ. App. 2008). Therefore, I would reverse the trial court's judgment and remand the cause for further proceedings.