

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

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

J.S., MOTHER of M.S., E.D., J.D.,
CHILDREN,

Appellant,

v.

Case No. 5D16-4267

DEPARTMENT OF CHILDREN AND FAMILIES,

Appellee.

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Opinion filed March 7, 2017

Appeal from the Circuit Court
for Volusia County,
Kathryn D. Weston, Judge.

Sherry Cote-Jarvis, of Cote-Jarvis &
Associates, P.A., Edgewater, for Appellant.

Ward L. Metzger, Appellate Counsel,
Department of Children and Families,
Jacksonville, for Appellee.

David Paul Krupski, Appellate Counsel,
Guardian ad Litem, Sanford, for Guardian
ad Litem Program.

COHEN, C.J.

J.S. appeals the order terminating her parental rights to three children, M.S., E.D., and J.D., who at the time of trial ranged from five to ten years old. The sole ground for termination of parental rights was J.S.'s failure to substantially comply with the case plan.

The children were initially removed from the home because of ongoing domestic violence involving J.S. and her boyfriend. During the course of the original court-ordered case plan, the mother tested positive for a controlled substance. As a result, four months before the termination of parental rights trial, the case plan was modified to require random drug tests and substance abuse counseling.

In its final order, the trial court terminated J.S.'s parental rights pursuant to section 39.806(1)(e)1., Florida Statutes (2016), finding that J.S. failed to substantially comply with the modified case plan. We have reviewed the trial transcript and accept the Department's concession that the evidence at the termination of parental rights trial was not legally sufficient to support the trial court's finding. Accordingly, we reverse the order terminating J.S.'s parental rights and remand for further proceedings.

REVERSED and REMANDED.

EVANDER and EDWARDS, JJ., concur.