

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

JULY TERM 2003

DEPARTMENT OF CHILDREN
AND FAMILIES,

Appellant,

v.

CASE NO. 5D02-1854

K.P., MOTHER OF W.G., A CHILD,

Appellee.

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Opinion filed November 7, 2003.

Appeal from the Circuit Court
for Seminole County,
Donna L. McIntosh, Judge.

Charles D. Peters, Department of Children
and Families, Orlando, for Appellant.

Mark H. Hutchison of Law Offices of
Mark H. Hutchison, Sanford, for Appellee.

THOMPSON, J.

We affirm the order dismissing the petition to terminate K.P.'s parental rights.

An order dismissing a petition for termination of parental rights is a mixed question of law and fact which will be sustained on review if the court applied the correct law, and its ruling is supported by competent substantial evidence in the record. See In re M.F., 770 So. 2d 1189 (Fla. 2000) (discussing dependency orders). Section 39.806(1)(e), Florida Statutes, provides that a petition for termination of

parental rights may be filed “unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the parent and child” Here, there was evidence supporting the trial court’s conclusion that the Department of Children and Family Services did not make a reasonable effort to reunify the parent and child in that it failed to see to it that a psychological evaluation was available to the mother. Compare In Interest of G.R.S., 647 So. 2d 1025 (Fla 4th DCA 1994).

AFFIRMED.

SHARP, W. and ORFINGER, JJ., concur.