

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

JANUARY TERM 2010

C.B., MOTHER OF N.F., A.F., E.F., J.F.
and A.F., CHILDREN,

Appellant,

CORRECTED OPINION

v.

Case Nos. 5D09-2485; 5D09-2486;
5D09-2487

DEPARTMENT OF CHILDREN AND FAMILIES,

Appellee.

_____ /

Opinion filed April 20, 2010

Appeal from the Circuit Court
for Osceola County,
Margaret Waller, Judge.

Nickole E. Frederick, Orlando, for
Appellant.

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

PER CURIAM.

C.B., the mother, appeals the orders terminating her parental rights to her five children. We affirm in all respects, save one. As the Department of Children and Families (DCF) concedes, the trial court erred by terminating the mother's parental rights as to N.F. based on multiple out-of-home care placements, as set forth in section 39.806(1)(f), Florida Statutes (2008). This ground was not pled as a basis for

termination in the petition and DCF failed to seek amendment of the petition to include this statutory ground as to N.F. See R.S. v. Dep't of Children & Families, 872 So. 2d 412, 413 (Fla. 4th DCA 2004). Despite this error, the court properly terminated the mother's parental rights as to all five children as other grounds supporting termination were adequately established. See J.C. v. Dep't of Children & Families, 959 So. 2d 431 (Fla. 4th DCA 2007) (holding that despite error in termination order, which incorrectly included abandonment as basis for termination, termination order would still stand where DCF established two other grounds supporting termination).

On remand, the trial court shall strike this finding. In all other respects, the termination orders are affirmed.

AFFIRMED AS MODIFIED.

MONACO, C.J., ORFINGER and JACOBUS, JJ., concur.