

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

JULY TERM 2010

R.P., FATHER OF S.P., A CHILD,

Appellant,

v.

Case No. 5D10-1991

DEPARTMENT OF CHILDREN
AND FAMILIES,

Appellee.

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Opinion filed December 13, 2010

Appeal from the Circuit Court
for Marion County,
S. Sue Robbins, Judge.

Carl S. New, Ocala, for Appellant.

Kelly A. Swartz, Rockledge, for Appellee.

Wendie Michelle Cooper, Tavares,
for Guardian ad Litem.

TORPY, J.

We affirm the lower court's order that terminated the parental rights of Appellant, rejecting the contentions that the evidence was insufficient to support termination and that termination was not the least restrictive means of protecting the child. We have specifically addressed the merits of the insufficiency argument, notwithstanding Appellee's protestation that this argument was not preserved. In doing so, we align ourselves with the Fourth District's decision in *H.D. v. Department of Children &*

Families, 964 So. 2d 818 (Fla. 4th DCA 2007). We acknowledge apparent conflict with *J.D. v. Department of Children & Families*, 825 So. 2d 447 (Fla. 1st DCA 2002).

AFFIRMED.

PALMER and LAWSON, JJ., concur.