IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

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

CASE NO. 1D12-0648

STATE OF FLORIDA, DEPARTMENT OF CHILDREN AND FAMILIES and GUARDIAN AD LITEM PROGRAM,

Appellants,

v.

D.A., Father of C.A., a minor child,

Appellee.

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Opinion filed June 6, 2012.

An appeal from the Circuit Court for Duval County.
David M. Gooding, Judge.

Ward L. Metzger, Department of Children and Families, Jacksonville; Kelley Schaeffer, Guardian ad Litem Program, Tavares, for Appellants.

Doris Rompf, Jacksonville, for Appellee.

WOLF, J.

The Department of Children and Families (Department) appeals from an order denying a petition to terminate the parental rights of D.A., appellee, as to his minor son C.A. The trial court specifically denied the petition for termination

based on its findings that the Department failed to make reasonable efforts to assist appellee in completing his case plan and failed to explore relatives for placement.

We find the trial court erred in failing to address two of the grounds for termination alleged by the Department: (1) that continuing the parental relationship with appellee, who was incarcerated, would be harmful to C.A., as set forth in section 39.806(1)(d)(3), Florida Statutes (2011); and (2) abandonment, as set forth in section 39.806(1)(b), Florida Statutes (2011). We find there was competent evidence that would have supported a finding of termination as to either of these grounds. Because the trial court specifically denied the petition for termination based on the Department's failure to assist appellee with his case plan and to find a relative placement, without addressing the grounds related to subsections 39.806(1)(d)(3) and (1)(b), it is unclear that the trial court actually considered these grounds. Thus, we reverse and remand for the trial court to address these grounds specifically.

Further, the trial court's finding that the Department failed to make an adequate search for a relative placement is inconsistent with the court's finding that there was no suitable relative placement for C.A.'s brother, D.A. In the Interest of D.A., No. 16-2010-DP-388-AXXX (Fla. 4th Cir. Ct. Feb. 8, 2012) (The cases were tried together below, and the same evidence was presented for both children on the issue of relative placement). See also K.W. v. Dep't of Children &

Families, 959 So. 2d 401, 402 (Fla. 1st DCA 2007) ("[T]he possibility of a relative placement is plainly not a reason to delay a decision to terminate parental rights if termination is otherwise in the manifest best interest of the child."); § 39.810(1), Fla. Stat. (2011) ("If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of . . . a placement with a relative, may not be considered as a ground to deny the termination of parental rights.").

For the foregoing reasons, we reverse and remand for further proceedings.

REVERSED and REMANDED.

LEWIS and THOMAS, JJ., CONCUR.