

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-0499

E.M., Father of G.T.E-M., S.K.E-M.,
S.Q.E-M., Minor Children,

Appellant,

v.

DEPARTMENT OF CHILDREN AND
FAMILIES,

Appellee.

On appeal from the Circuit Court for Escambia County.
Jeffrey Burns, Judge.

October 5, 2021

PER CURIAM.

E.M. appeals from a termination of parental rights proceeding held in his absence. Due to his failure to appear, only a partial transcript was made, and E.M. never sought at the trial court nor on appeal to have a complete transcript prepared. He now claims that because he failed to attend the hearing and then failed to have the hearing transcribed,* we must reverse the trial court's

* E.M. has still not sought to supplement the record with the transcript (or statement of the evidence) despite its absence being recognized in the initial, answer, and reply briefs. It cannot be said the failure to furnish it was "mere oversight unknown to

judgment terminating his parental rights because there is a lack of evidence to support it. We disagree.

“Without a record of the trial proceedings, the appellate court can not properly resolve the underlying factual issues so as to conclude that the trial court’s judgment is not supported by the evidence or by an alternative theory.” *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150, 1152 (Fla. 1979). “Even in a termination of parental rights proceeding, the lack of a transcript mandates affirmance unless fundamental error appears on the face of the order.” *D.R. v. Dep’t of Children & Families*, 236 So. 3d 1175, 1177 (Fla. 1st DCA 2018). The face of the order indicates testimony was heard in Appellant’s absence and appropriate findings were made, and the record before us supports termination.

AFFIRMED.

LEWIS, NORDBY, and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Kari Jorma Myllynen of The Law Office of K.J. Myllynen,
Esquire, Land O’ Lakes, for Appellant.

Sarah J. Rumph of Children’s Legal Services, Tallahassee, for the
Department of Children and Families, for Appellee.

Appellant[]” which Florida Rule of Appellate Procedure 9.200(f)(2) is intended to provide protection against. *Snowden v. Wells Fargo Bank*, 172 So. 3d 506, 508 (Fla. 1st DCA 2015). It is appropriate for us to hold the lack of a record against Appellant.

Kristie L. Hatcher-Bolin of Gray Robinson, P.A., Lakeland, and
Thomasina F. Moore, Statewide Director of Appeals, Tallahassee,
for Guardian ad Litem o/b/o G.T.E-M., S.K.E-M., S.Q.E-M.