

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**A.W.**, the Father,  
Appellant,

v.

**DEPARTMENT OF CHILDREN AND FAMILIES,**  
Appellee.

No. 4D16-2783

[November 30, 2016]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Rosemarie Scher, Judge; L.T. Case No. 2014DP300527 JK.

Frank Kreidler, Lake Worth, for appellant.

Meredith K. Hall, Bradenton, for appellee Department of Children and Families.

Sara E. Goldfarb, Sanford, for appellee Guardian Ad Litem Program.

PER CURIAM.

*Affirmed.* Competent substantial evidence supported the trial court's determination that no fraud or duress was used to obtain the parents' surrender of parental rights in order to allow for adoption. *See K.C. v. Adoption Servs., Inc.*, 721 So. 2d 811, 812 (Fla. 4th DCA 1998) (holding that the burden of proof is on the parent seeking to set aside consent to termination of parental rights, and evidence did not establish that the parent was under duress). Appellants were not entitled to appointed counsel for pursuing a post-judgment claim of ineffective assistance of counsel. *See J.B. v. Fla. Dep't of Children & Families*, 170 So. 3d 780 (Fla. 2015) (holding that while parents have the right to appointed counsel with regard to termination proceedings in both trial and appellate courts, parents do not have the right to counsel in post-termination proceedings in which the parents are claiming ineffective assistance of counsel). The Department of Children and Families ("the Department") satisfied the least restrictive means test through its efforts prior to termination. *See S.M. v. Fla. Dep't of Children & Families*, No. SC15-2127 (Fla. Sept. 1, 2016) (finding that the Department satisfies its burden under the least restrictive

means prong by making a good faith effort to rehabilitate parent and child *prior to* filing of termination of parental rights petition; availability of relative placement after court terminates parental rights is not part of least restrictive means test).

WARNER, GROSS and FORST, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***