

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

N.M., the Father,
Appellant,

v.

STATE OF FLORIDA, DEPARTMENT OF CHILDREN AND FAMILIES,
Appellee.

No. 4D20-1477

[October 28, 2020]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Kathleen Kroll, Judge; L.T. Case No. 50-2019-DP-000366-XXXX-MB.

Andrew A. Holness of the Law Offices of Andrew A. Holness, P.A., West Palm Beach, for appellant.

Andrew Feigenbaum, Children's Legal Services, West Palm Beach, for appellee.

Thomasina F. Moore, Statewide Director of Appeals, and Samantha C. Valley, Senior Attorney, Statewide Guardian Ad Litem Office, Tallahassee, for Guardian Ad Litem Program.

PER CURIAM.

N.M., the father, appeals an order terminating his parental rights. We find that the father's arguments on appeal for reversal are meritless, and we affirm the termination of his parental rights based on his constructive consent.

However, we remand to the trial court for correction of what the Department of Children and Families concedes is a "scrivener's error." The order on appeal states that certain facts supporting the termination of parental rights, such as exposure of the child to substance misuse, sexual abuse, and domestic violence, as well as the father's sexual abuse of another child, were "clearly and convincingly demonstrated through *testimony*." (Emphasis added.) There being no competent, substantial testimony to support these facts, we remand for the trial court to correct

the judgment to reflect that termination was based on constructive consent, not testimony, and to strike any portions of the order indicating the contrary.

Affirmed and remanded with instructions.

DAMOORGIAN, CIKLIN, JJ., and FRINK, KEATHAN, Associate Judge, concur.

* * *

Not final until disposition of timely filed motion for rehearing.