

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

In the Interest of A.F., a child. )  
\_\_\_\_\_)  
S.P.R., )  
 )  
Appellant, )  
 )  
v. )  
 )  
DEPARTMENT OF CHILDREN AND )  
FAMILIES and GUARDIAN AD LITEM )  
PROGRAM, )  
 )  
Appellees. )  
\_\_\_\_\_)  
In the Interest of A.F., a child. )  
\_\_\_\_\_)  
B.F., )  
 )  
Appellant, )  
 )  
v. )  
 )  
DEPARTMENT OF CHILDREN AND )  
FAMILIES and GUARDIAN AD LITEM )  
PROGRAM, )  
 )  
Appellees. )  
\_\_\_\_\_)

Case Nos. 2D16-3011  
2D16-3394

CONSOLIDATED

Opinion filed February 10, 2017.

Appeals from the Circuit Court for  
Lee County; Robert Branning, Judge.

Toni A. Butler of Alderuccio & Butler, LLC,  
Naples, for S.P.R.; and Valerie Linnen,  
Atlantic Beach, for B.F.

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

Sara E. Goldfarb, Sanford, for Appellee  
Guardian ad Litem Program.

LaROSE, Judge.

S.P.R. and B.F. (the parents) appeal the denial of their motions alleging ineffective assistance of counsel at the trial of the Department of Children and Families' petition to terminate their parental rights to their infant daughter. The parents filed timely motions, which were deemed denied after the trial court failed to dispose of the motions within twenty-five days after filing. J.B. v. Fla. Dep't of Children & Families, 170 So. 3d 780, 794-795 (Fla. 2015). We affirm the denial of relief.<sup>1</sup>

The Department presented uncontested evidence that between the ages of two and five months, the infant suffered fourteen fractures to fourteen different bones. When these injuries were discovered, they were at different stages of healing, demonstrating that they did not occur in a single traumatic event. The child had never been to daycare and never had a babysitter. Yet, the parents provided conflicting explanations for the cause of the fractures.

We have reviewed carefully the records on appeal. Based on the standard established by the supreme court in J.B., we conclude that trial counsel's

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<sup>1</sup>We have consolidated these appeals.

alleged deficiencies did not "so prejudice[ ] the outcome of the TPR proceeding that but for counsel's deficient representation the parent's rights would not have been terminated." Id. at 792-93.<sup>2</sup> Accordingly, we affirm the order terminating the parents' rights to their daughter and the disposition of the motions alleging ineffective assistance of counsel.

Affirmed.

NORTHCUTT and CRENSHAW, JJ., Concur.

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<sup>2</sup>The supreme court is in the process of adopting a rule of procedure for bringing and resolving claims of ineffective assistance of counsel in termination of parental rights cases. See Joint Report of the Select Committee on Claims of Ineffective Assistance of Counsel in the Termination of Parental Rights Proceedings, In re Amendments to Florida Rules of Juvenile Procedure and Florida Rule of Appellate Procedure 9.146, No. SC16-553 (Fla. Mar. 31, 2016).