

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

In the Interest of E.W., L.W., and M.W., children.

W.C.W.,

Appellant,

v.

DEPARTMENT OF CHILDREN AND FAMILIES and
GUARDIAN AD LITEM PROGRAM,

Appellees.

No. 2D20-3666

July 16, 2021

Appeal from the Circuit Court for Manatee County; Gilbert Smith, Jr., Judge.

Richard Barton Ray of Paster, Ray & Cohen, P.A, Bradenton for Appellant.

Meredith K. Hall, Children's Legal Services, Bradenton, for Appellee Department of Children and Families.

Thomasina F. Moore, Statewide Director of Appeals, and Sara Elizabeth Goldfarb, Senior Attorney, Appellate Division, Tallahassee, for Appellee Guardian ad Litem Program.

PER CURIAM.

W.C.W., the Grandfather appeals the final order dismissing his amended petition for adoption of his three grandchildren, whose parents' rights were terminated on September 7, 2017. We affirm because prior to entry of the final order, the Grandfather had not completed the process of applying to adopt the children through the Department of Children and Families.

The Grandfather filed a notice of appeal of a nonfinal order granting a motion filed by the Department to dismiss his petition for adoption. The nonfinal order advised the Grandfather that he could apply with the Department to adopt the children if he had not already done so. The Grandfather had already done so. When this court issued an order to show cause why the appeal should not be dismissed as from a nonappealable, nonfinal order, the Grandfather obtained a final order dismissing his petition for adoption. There is no indication that the Grandfather had made any additional progress in the application process with the Department at the time of the entry of the final order. In fact, the Department has not yet made a decision on the placement of the children in part due to the failure of the Grandfather to qualify as an adoptive placement

according to its home study, and the record indicates that decision is undergoing administrative review. See Fla. Admin. Code R. 65C-16.005(8) (providing that if a home study is not approved, "the case will be reviewed by an Adoption Applicant Review Committee"); Fla. Admin. Code R. 65C-16.005(9)(c) (providing that the applicant will be notified of any decision by the Adoption Applicant Review Committee to deny an adoption application in writing within ten business days of the decision and will be advised of the option for review under chapter 120).

We write to express our concern about the length of time the children have been in foster care. The children were placed with their maternal grandmother as a preadoptive placement before termination of their parents' rights, but they were removed from her in April 2019. Since then, the children have been in foster care. "[T]he paramount concern is expeditiously achieving permanent stability for the children, specifically, achieving permanent placement within one year." *Dep't of Child. & Fams. v. Statewide Guardian Ad Litem Program*, 186 So. 3d 1084, 1090 (Fla. 1st DCA 2016) (quoting *B.Y. v. Dep't of Child. & Fams.*, 887 So. 2d 1253, 1256 (Fla. 2004)); see § 39.001(1)(h), Fla. Stat. (2020) (stating that

the purpose of chapter 39 is "[t]o ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year"). The Department woefully failed at satisfying the paramount concern of achieving permanent stability for the children in this case.

Notably, the trial court retains jurisdiction over children who have been placed in the Department's custody for subsequent adoption until they are adopted, including to review their status "and the progress being made toward permanent adoptive placement." § 39.812(4); *see Dep't of Child. & Fams.*, 186 So. 3d at 1092 (concluding "that the trial court departed from the essential requirements of law in limiting the Department's discretion in placing the Children in a potential adoptive home," but nonetheless recognizing that "given that the Children had been in foster care for over a year, in violation of the legislative intent, the trial court was legitimately concerned about the delay in securing a permanent placement for them" and "[a]s a result, the trial court could have compelled the Department to make an expeditious selection of an adoptive family").

Affirmed.

MORRIS, C.J., and BLACK and ROTHSTEIN-YOUAKIM, JJ.,
Concur.

Opinion subject to revision prior to official publication.