

# Third District Court of Appeal

## State of Florida

Opinion filed September 24, 2015  
Not final until disposition of timely filed motion for rehearing.

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No. 3D15-1470  
Lower Tribunal No. 15-15260

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**The Department of Children and Families,**  
Appellant,

vs.

**N.M., the Mother, and E.J., the Father,**  
Appellees.

An appeal from the Circuit Court for Miami-Dade County, Martin Zilber, Judge.

Karla Perkins, Appellate Counsel, for appellant.

Kevin Coyle Colbert, Criminal Conflict & Civil Regional Counsel, Third Region, for N.M., the Mother, and Donna Pike, for the Father.

Before SUAREZ, C.J., and EMAS and FERNANDEZ, JJ.

SUAREZ, C.J.

The Department of Children and Families (“Department”) appeals from an order fining the Department five hundred (\$500.00) for failing to timely file a case

plan seventy-two (72) hours in advance of a reunification hearing. We have jurisdiction. Fla. R. App. P. 9.146.

The trial court held the Department in contempt without the lower court following the procedures laid out in the Florida Rules of Juvenile Procedure for either a criminal or civil contempt proceeding.<sup>1</sup> The Department argues that the court deprived the Department of the opportunity to present evidence to show the late filing was neither willful nor done with the intent to hinder the administration of justice. It is unclear from the record before us whether the trial court imposed the \$500 penalty against the Department as a criminal or civil contempt fine. In either event, we agree that the finding of contempt without giving the Department a reasonable opportunity to respond was unwarranted. We thus reverse and remand with instruction to vacate the May 18, 2015 order imposing the fine.

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<sup>1</sup> Florida Rule of Juvenile Procedure 8.285(b) sets forth the procedures required before a court can make a finding of indirect criminal contempt; Florida Rule of Juvenile Procedure 8.286 provides for civil contempt proceedings.