

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2012 CJ 0880

**STATE OF LOUISIANA
IN THE INTEREST OF L.S. AND D.S.**

Judgment Rendered: NOV - 2 2012

*** * * * ***

On Appeal from the City Court of Bogalusa
In and for the Parish of Washington
State of Louisiana
Docket No. J2010-159

Honorable Robert J. Black, Judge Presiding

*** * * * ***

Theresa A. Beckler
Bogalusa, Louisiana

Counsel for Appellee
Louisiana Department of Children
and Family Services

Betsy Smith
K. Brandon Cline
Mandeville, Louisiana

Counsel for Appellees
L.S. and D.S.

M.C.
Bogalusa, Louisiana

Appellant
In Proper Person

R.S.
Bogalusa, Louisiana

Appellant
In Proper Person

*** * * * ***

BEFORE: WHIPPLE, McCLENDON, AND HIGGINBOTHAM, JJ.

VGW by TAMH
MC
TAMH

McCLENDON, J.

Appellants seek review of the trial court's judgment terminating their parental rights. Because the appeal was not filed within the delay set forth in LSA-Ch.C. art. 332(A), we grant the motion to dismiss the appeal filed by the Louisiana Department of Children and Family Services (the Department).

FACTS AND PROCEDURAL HISTORY

On April 12, 2011, the Department filed a Petition for Termination of Parental Rights against M.C. and R.S., the parents of L.S. and D.S. Following a trial on July 20, 2011, the trial court took the matter under advisement. On August 26, 2011, the trial court rendered judgment terminating parental rights, and notice of judgment was issued that same day. On September 14, 2011, M.C. and R.S., in proper person, filed a motion for devolutive appeal.¹ The trial court granted the motion for appeal on September 16, 2011.

On June 21, 2012, this court issued a rule to show cause ordering the parties to submit briefs as to whether the appeal should or should not be dismissed as untimely. In response to this court's show cause order, appellants submitted a letter to this court stating "When we got the [paperwork] we went to a [lawyer] and got help for the motion for the appeal." No specific reference was made to the timeliness of the appeal. In opposition, the Department submitted that the appeal was not sought timely and filed a motion to dismiss the appeal.

DISCUSSION

Our courts have consistently held that an appeal not timely filed in juvenile matters shall be dismissed. **State ex rel. C.P.**, 00-2703, p. 2 (La. 1/17/01), 777 So.2d 470, 471. Moreover, courts lack appellate jurisdiction if an appeal is untimely. See LSA-C.C.P. art. 2162; **State ex rel. C.P.**, 00-2703 at p. 2, 777 So.2d at 471; and **Board of Com'rs of Hammond Area Economic and Indus. Development Dist. v. All Taxpayers, Property Owners, Citizens of**

¹ M.C. and R.S. were represented by counsel during the course of the trial court proceedings.

Hammond, 06-1832, p. 6 (La.App. 1 Cir. 10/6/06), 944 So.2d 640, 643, writ denied, 06-2426 (La. 11/3/06), 940 So.2d 675.

Louisiana Children's Code article 332 provides that absent a motion for new trial, "appeals shall be taken within fifteen days from the mailing of notice of the judgment." The delay begins to run from the date the notice of judgment is issued, and the date of service, delivery, or receipt of the notice is not determinative. See LSA-C.C.P. art. 1913; LSA-Ch.C. arts. 104 and 332(B); and **State ex rel. C.P.**, 00-2703 at p. 3, 777 So.2d at 472.

The notice of judgment terminating parental rights was mailed on August 26, 2011. The appellants filed their motion for devolutive appeal on September 14, 2011, or nineteen days after the notice was mailed. Appellants' failure to timely file their motion for devolutive appeal removed jurisdiction from this court to consider their appeal. As such, we are required to dismiss the appeal. **State ex rel. C.P.**, 00-2703 at p. 3, 777 So.2d at 472.

CONCLUSION

For the foregoing reasons, we grant the Department's motion to dismiss the appeal. Costs of this appeal are assessed to the appellants, M.C. and R.S.

MOTION TO DISMISS APPEAL GRANTED.