

**STATE OF LOUISIANA IN
THE INTEREST OF A.D.S.,
A.T.S. AND J.D.S.**

*** NO. 2004-CA-0250
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

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JONES, J. CONCURS IN PART; DISSENTS IN PART

I agree with the majority that the evidence must allow the conclusion that termination is in the best interest of the child. *State in the Interest of D.T. v K.T.*, 29, 796 (La. App. 2 Cir. 6/18/97), 697 So.2d 665, 668.

However, I am inclined to consider the age of the children. While I agree that the eleven-month-old child is better off in a foster care setting, I disagree that the eleven-year-old and eight-year-old children should be taken from their mother. The older children have bonded significantly with their mother and she is still the prime being in their lives. I do not find that the past conduct of the mother is so detrimental to necessitate removal of the eldest children. J.D.S. is at a tender age where there is still a chance that this child can come to know another person as “mother”. For this reason I would allow the mother to continue caring for her eldest children and terminate her

parental rights only to the baby; any harm done to the eleven month old can still be reversed.