

**STATE OF LOUISIANA IN
THE INTEREST Z.D.**

*** NO. 2017-CA-0616
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

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LOVE, J., CONCURS IN THE RESULT WITH REASONS

I respectfully concur in the result. I write separately because, unlike the majority, I would exercise this Court’s discretion to convert the appeal to an application for supervisory review and deny the writ.

I find the record contains a judgment of disposition¹ as to Z.D.’s father. The juvenile court’s June 27, 2017 judgment states:

Considering the testimony of the witness taken under oath and the information provided to the Court, the Court finds that the State did not meet its burden regarding the father in this matter for insufficient evidence...IT IS ORDERED, ADJUDGED AND DECREED that the child is hereby found NOT to be a Child in Need of Care as to the father, [J.B.].

Absent from the judgment is the appropriate decretal language, either disposing of or dismissing the State’s child in need of care petition. *See* La. C.Cr.P. art. 330(B).² When a “judgment does not contain the appropriate decretal language [either] disposing of or dismissing [the State’s] child in need of care petition, [an appellate court] cannot consider it as a final judgment for purpose of an appeal.” *State in Interest of J.C.*, 16-0138, p. 6-7 (La. App. 1 Cir. 6/3/16), 196 So.3d 102, 107. Nevertheless, when the “litigation would have been terminated had the

¹ *See* La. Ch.C. art. 782; *also Medus v. Medus*, 379 So.2d 21, 23 (La. App. 3rd Cir. 1979) (finding the minute entries and court orders constituted judgments of disposition within the meaning of the former version of La. Ch.C. art. 782(C)).

² La. Ch.C. art. 330(B) provides, “[i]n...child in need of care proceedings...an appeal may be taken only after a judgment of disposition...[and] shall include all errors assigned concerning the adjudication and disposition.”

district court included the proper decretal language dismissing the petition, [an appellate court can] exercise [its] discretion and convert th[e] appeal to an application for supervisory writ.” *Id.*, 16-0138, p. 7, 196 So.3d at 107.

The record contains a judgment of disposition, however, it simply lacks the necessary decretal language to be considered a final appealable judgment. Considering the seriousness of cases involving a child in need of care, I would exercise our discretion and convert the present appeal to an application for supervisory review. Therefore, I address the trial court’s ruling below.

In determining whether a child is in need of care, the court “is vested with great discretion [,] and such a decision will not be reversed [...] absent a showing of abuse of that discretion.” *State in Interest of S.T.*, 14-0731, p. 3 (La. App. 4 Cir. 1/28/15), 158 So.3d 944, 946 (quoting *State in the Interest of D.S.*, 04-0327, p. 3 (La. App. 4 Cir. 7/28/04), 881 So.2d 764, 766). The June 27, 2017 judgment sets forth reasonable measures for the child’s care in contemplation of the case plan goal for reunification/adoption upon the court’s approval. Likewise, it put orders in place with respect to Z.D.’s mother, who is required to participate and successfully complete court-mandated counseling and “monthly medication management meetings” as well as “continue to maintain safe and stable housing free of hazards.” The juvenile court judge is in a better position, having heard the testimony presented and being familiar with the case history, to determine what is in the best interests of the child. Thus, I find no abuse of the juvenile court’s discretion. I would deny the writ.

Accordingly, I concur in the result but for the reasons addressed herein.