

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

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

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**BARTHOLOMEW-WOODS, J., DISSENTS WITH REASONS**

I respectfully dissent from the result reached by the majority. I would find that the juvenile court abused its discretion, resulting in an adjudication that Z.D. is not a child in need of care. Specifically, the juvenile court held as it did after noting the State relied upon hearsay evidence to which there was no objection. While the majority opinion suggests that the record does not support the State’s assertion that the court ruled such hearsay inadmissible, I disagree. The court, on its own, indicated that the testimony of Ms. Charles was “all hearsay” and further noted the lack of objection thereto. The court thereafter stated that individuals like Ms. Charles “may testify about what a parent said” when the parent speaks directly to them, but “not through a second person[,]” as was the case here. The court then concluded there was insufficient evidence. Although the court did not explicitly state that it was excluding such evidence, the court’s comments clearly indicate, to me, that the court did not consider the hearsay testimony.

The law is clear that an “adjudication hearing shall be conducted according to the rules of evidence applicable to civil proceedings.” La.Ch.C. art.663(A). The failure to object constitutes a waiver of the right to object to admissibility, and thereafter, the evidence may be considered and given probative effect. *Guedon & Assocs., Inc. v. Haik*, 533 So.2d 1256, 1260 (La.App. 4 Cir. 1988). I am unaware

of any jurisprudence under the current circumstances wherein a trial court can supply or sustain an objection that was never offered. Accordingly, I would reverse.