

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

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

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DYSART, J., DISSENTS, WITH REASONS.

Although I agree that the record does not contain a judgment of disposition, it is clear from the trial court’s ruling that it dismissed the State’s child in need of care petition, setting the matter for a case review hearing, and not a disposition hearing. Thus, I respectfully dissent as I find that the trial court erred in not finding Z.D. to be a child in need of care as to his father, J.B.

The purpose of Title 6, Child in Need of Care, of the Louisiana Children’s Code is to protect children whose physical or mental health and welfare is substantially at risk of harm by abuse, neglect or exploitation. La. Ch.C. art. 601. The health, safety and best interest of the child are of paramount concern. *Id.*; *see also, State in the Interest of D.A.*, 10-1040, p. 7 (La.App. 5 Cir. 6/14/11), 70 So.3d 960, 963. To reverse a fact finder’s determination of fact, an appellate court must review the record in its entirety and find that a reasonable factual basis does not exist, and further determine that the record establishes that the fact finder is clearly wrong or manifestly erroneous. *Stobart v. State, through DOTD*, 617 So.2d 880 (La. 1993); *State in the Interest of D.H.*, 04-2105, pp. 7-8 (La.App. 1 Cir. 2/11/05), 906 So.2d 554, 560.

After reviewing this record in its entirety and considering the best interests of Z.D., I find that it would not be a prudent use of judicial resources to require a

disposition hearing prior to ruling on the merits of the child in need of care petition. This is especially true in light of the fact that Z.D.'s father, J.B., is incarcerated until 2027. I would therefore reverse the ruling of the trial court and find Z.D. to be a child in need of care as to his father, J.B.