

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e) (3) of the North Carolina Rules of Appellate Procedure.

NO. COA08-941

NORTH CAROLINA COURT OF APPEALS

Filed: 6 January 2009

IN THE MATTER OF:

Em.M.W. and El.M.W.,
Minor Children.

Guilford County
Nos. 02 JA 467, 06 JA 863

Appeal by respondent-mother from order entered 17 December 2007 by Judge Sherry F. Alloway in Guilford County District Court. Heard in the Court of Appeals 15 December 2008.

Court of Appeals

James A. Dickens for petitioner-appellee Guilford County Department of Social Services.

Keith A. Bishop, PLLC, by Keith A. Bishop, Esq. for respondent-appellant mother.

Smith, James, Rowlett & Cohen, L.L.P., by Margaret Rowlett, for respondent-appellee Guardian ad Litem to the minor children.

BRYANT, Judge.

R.W-J. ("respondent") is the biological mother of the minor children Em.M.W. and El.M.W.¹ ("the juveniles"). On 15 November 2006, the Guilford County Department of Social Services ("petitioner") filed a juvenile petition alleging the juveniles were neglected and dependent. At a hearing on 19 January 2007, the trial court adjudicated the juveniles neglected and dependent. The

¹ Initials have been used throughout to protect the identity of the juveniles.

trial court continued custody of the juveniles with petitioner and ordered petitioner to proceed with the termination of the parental rights of the juveniles' parents.

Petitioner filed a verified petition to terminate parental rights on 19 March 2007. The biological father of Em.M.W. had previously relinquished his parental rights on 1 December 2006, and the trial court entered an order on 17 December 2007 terminating the biological father's parental rights to El.M.W. In a separate order entered 17 December 2007, the trial court terminated the parental rights of respondent to both of the juveniles. The trial court found two grounds existed to support the termination of respondent's parental rights to the juveniles:

80. [Respondent] has neglected the juveniles as defined in N.C.G.S. §7B-1111(a)(1) and 7B-101(5), and it is probable that there would be a repetition of said neglect by [respondent] if the juveniles were placed in her care.

81. [Respondent], due to her long history of substance abuse, is incapable of providing for the proper care and supervision of the juveniles, such that the juveniles are dependant juveniles within the meaning of N.C.G.S. §7B-1111(a)(6) and §7B-101(9), and there is a reasonable probability that such incapability will continue for the foreseeable future. She is unable to parent and lacks an appropriate alternative child care arrangement.

On 29 January 2008, the trial court entered an order correcting clerical mistakes to the 17 December 2007 order terminating respondent's parental rights to the juveniles. Respondent entered her initial notice of appeal on 15 January 2008,

and filed an amended notice of appeal on 17 January 2008 to reflect the correct file numbers in the juvenile's cases.

At the outset, we note respondent has signed neither the initial notice of appeal filed 15 January 2008 nor the amended notice of appeal filed 17 January 2008. Pursuant to Rule 3A, "[i]f the appellant is represented by counsel, both the trial counsel and appellant must sign the notice of appeal" N.C. R. App. P. 3A(a) (2008). Rule 3A is jurisdictional and failure to comply with its requirements mandates dismissal of the appeal. *In re L.B.*, ___ N.C. App. ___, ___, 653 S.E.2d 240, 244 (2007), *disc. review denied and cert. denied*, 362 N.C. 358, 661 S.E.2d 247-48, and *aff'd*, 362 N.C. 507, 666 S.E.2d 751 (2008).

It is well established that "[t]he question of subject matter jurisdiction may be raised at any time, even in the Supreme Court. When the record clearly shows that subject matter jurisdiction is lacking, the Court will take notice and dismiss the action *ex mero motu.*" *In re A.F.H-G*, ___ N.C. App. ___, ___, 657 S.E.2d 738, 739 (2008) (quoting *Lemmerman v. A.T. Williams Oil Co.*, 318 N.C. 577, 580, 350 S.E.2d 83, 85-86 (1986)). While this Court could review respondent's arguments pursuant to a writ of certiorari, respondent has not filed a petition for writ of certiorari with this Court and her brief in this matter cannot be considered as such a petition because it fails to fully comply with the requirements of Rule 21 of our Rules of Appellate Procedure. See N.C. R. App. P. 21(c) (2007) (requiring a petition for writ of certiorari to include, *inter alia*, a statement of the reasons why the writ should issue

and be verified by counsel or the petitioner); *In re A.S.*, ___ N.C. App. ___, ___, 661 S.E.2d 313, 316 (2008) (dismissing respondent's appeal, but reviewing respondent's arguments on the merits after allowing respondent's petition for writ of certiorari). Accordingly, we must dismiss respondent's appeal.

Dismissed.

Judges WYNN and CALABRIA concur.

Report per Rule 30(e).