



NUMBER 13-16-00067-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN THE INTEREST OF J. A. A., A CHILD

On appeal from the County Court at Law No. 5
of Nueces County, Texas.

MEMORANDUM OPINION

**Before Justices Rodriguez, Contreras,¹ and Longoria
Memorandum Opinion by Justice Contreras**

In this appeal, appellant A.A.,² the mother of the child J.A.A.,³ contests the trial court's order in the underlying suit affecting the parent-child relationship signed on December 22, 2015. Among other things, the order: (1) appointed the presumed father,

¹ Justice Dori Contreras, formerly Dori Contreras Garza. See TEX. FAM. CODE ANN. § 45.101 *et seq.* (West, Westlaw through 2015 R.S.).

² We refer to the child and her parents by their initials in accordance with the rules of appellate procedure. See TEX. R. APP. P. 9.8(b)(2).

³ Also referred to in the record as J.J.A.

C.A., permanent managing conservator of the child; (2) ordered “no contact until [A.A.] appears in Court and a clean hair follicle test”; and (3) required A.A. to make monthly child support payments to C.A. On appeal, A.A. contends that (1) the evidence was legally and factually insufficient to support the order, and (2) she received ineffective assistance of trial counsel. She also asserts that she received insufficient notice of the trial. A.A. asks us to reverse the order and for any further relief to which she may be entitled.

Appellee, the Department of Family and Protective Services (the “Department”), concedes that it “failed to elicit testimony from any witnesses or proffer any exhibits into evidence” at trial. Therefore, the Department agrees that the order was rendered without sufficient evidence. In its brief, the Department’s counsel represents that he has spoken to appellant’s counsel and that “the parties have agreed that this case should be reversed and remanded for new trial.” The Department asks that we reverse the trial court’s order and remand for a new trial in accordance with the parties’ agreement.

Accordingly, due to the unique circumstances of this case, in which both parties to this appeal appear to request the same relief, we reverse the trial court’s judgment without addressing the merits, and the cause is remanded for a new trial. See *In the Interest of J.W.*, No. 13-14-00559-CV, 2016 WL 1316687, at *2 (Tex. App.—Corpus Christi Mar. 10, 2016, no pet.) (mem. op.).

DORI CONTRERAS
Justice

Delivered and filed the
9th day of February 2017.