



ENTRY ORDER

SEPTEMBER TERM, 2021

In re B.R., C.R., R.R., T.R., C.R., Juveniles (A.R., Mother*)	}	APPEALED FROM:
	}	
	}	Superior Court,
	}	Grand Isle Unit, Family Division
	}	
	}	CASE NOS. 22-10-18 Gijv; 23-10-18 Gijv; 24- 10-18 Gijv; 25-10-18 Gijv; 26-10-18 Gijv

In the above-entitled cause, the Clerk will enter:

In the underlying juvenile cases, the family division terminated appellant mother’s parental rights in November 2020. Mother was represented by court-assigned counsel during those proceedings. Parents filed a motion to reconsider the termination decision, which the family division denied in January 2021. Parents appealed and this Court affirmed. In re C.R., Nos. 2020-310 & 2021-028, (June 11, 2021). Mother’s motion to reargue the appellate case was denied by this Court in July 2021. In August 2021, mother submitted a pro se request to the family division to have a new attorney assigned to her to assist her with her motion to “redetermine” the termination of parental rights decision based on a claim of ineffective assistance of trial counsel. This motion can fairly be characterized as a Vermont Rule of Civil Procedure 60(b) motion. Mother did not submit an application for public-defender services with her motion. The family division denied the request to redetermine the decision, explaining that the time to seek reargument had passed. The family division also denied the request for appointment of counsel as moot. Representing herself, mother filed a notice of appeal with this Court, indicating that she wished to appeal the family division order denying her appointment of counsel to assist her in pursuing her request for a redetermination of her case.

Mother’s appeal was assigned to a single Justice under Administrative Order 4 § 5(j), which provides that persons denied public-defender services because they are not needy, are entitled to review by a single Justice of the Supreme Court. Administrative Order 4 § 5 requires an associate Justice of the Supreme Court to “make a determination, with or without a hearing, as to the merits of [whether appellant is] . . . not a needy person eligible for public defender services . . .” (emphasis added). In this case, the family division did not decide whether mother met the income eligibility to qualify for public defender services. Mother was previously granted public defender services and it is evident from the record that she qualified as a needy person. The family division denied mother’s request for assignment of counsel based on its conclusion that her request was moot because all proceedings were completed in the family division. Therefore, this appeal does not fall within the narrow category of cases reviewable by a single Justice under Administrative Order 4, § 5, and the single Justice referred the matter to the full Court.

In In re M.T., 2017 VT 104, ¶ 8, 206 Vt. 80, this Court held that qualifying parents are ordinarily entitled to court-appointed counsel for purposes of assisting with motions filed under Vermont Rule of Civil Procedure 60(b) which is, in essence, what mother is seeking. Therefore, the family division's order denying counsel is reversed and the case is remanded to the family division for appointment of counsel for mother for purposes of assisting her with her Rule 60(b) motion.

BY THE COURT:

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice