

No. 83516-1

STEPHENS, J. (concurring in dissent)—I concur in Justice Alexander’s dissent. RCW 13.34.180(1)(a) unambiguously requires a finding of dependency before the State may bring a petition seeking termination of a parent and child relationship. The proceedings in this case demonstrate that the parties and the lower court were aware of the need for a dependency finding, as they relied entirely on what turned out to be a void dependency order.

I share the majority’s concern for K.N.J., who is nearly six years old and has never been in her father’s custody. There is a legitimate desire in cases such as this to find a solution rather than disrupt a child’s life based on what some may label a “technicality.” But, this is not the first case in which a defect in subject matter jurisdiction has surfaced to thwart the interests of certainty and finality, nor is it likely to be the last. I cannot reconcile the majority’s solution with the requirements of the statute, which does not authorize an appellate court to make an after-the-fact dependency determination based on facts found at the termination trial. I therefore

In re Dependency of K.N.J., Michael Jenkins v. Dep't of Soc. & Health Servs., 83516-1
(Stephens, J. Concurrence in Dissent)

concur in the dissent.

AUTHOR:

Justice Debra L. Stephens

WE CONCUR:
