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2012 IL App (4th) 111008-U

Filed 4/6/12

NOS. 4-11-1008, 4-11-1009, 4-11-1010 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: J.M., a Minor,	)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
Petitioner-Appellee,	)	Sangamon County
v. (No. 4-11-1008)	)	Nos. 08JA163
DETRA TUCKER,	)	08JA164
Respondent-Appellant.	)	08JA165

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In re: S.T., a Minor,	)	
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-11-1009)	)	
DETRA TUCKER,	)	
Respondent-Appellant.	)	

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In re: Y.T., a Minor,	)	
THE PEOPLE OF THE STATE OF ILLINOIS,	)	
Petitioner-Appellee,	)	
v. (No. 4-11-1010)	)	Honorable
DETRA TUCKER,	)	Esteban F. Sanchez,
Respondent-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE TURNER delivered the judgment of the court.  
 Justices Steigmann and Appleton concurred in the judgment.

**ORDER**

¶ 1 *Held:* Because the notices of appeal were filed before the written orders terminating respondent's parental rights were filed, we dismiss these consolidated appeals for lack of jurisdiction.

¶ 2 In January 2011, the State filed motions to terminate the parental rights of

respondent, Detra Tucker, as to her children, J.M., S.T., and Y.T. In June 2011, the trial court found respondent unfit. In November 2011, the court found it in the minors' best interests that respondent's parental rights be terminated. In December 2011, the court entered orders terminating respondent's parental rights.

¶ 3 In these consolidated appeals, respondent argues the trial court erred in (1) finding her unfit and (2) finding it the minors' best interests that her parental rights be terminated. We dismiss the appeals.

¶ 4 I. BACKGROUND

¶ 5 In November 2008, the State filed petitions for adjudication of wardship with respect to J.M., born in July 2001; S.T., born in January 1996; and Y.T., born in September 2003, alleging they were abused minors pursuant to section 2-3(2) of the Juvenile Court Act of 1987 (705 ILCS 405/2-3(2) (West 2008)). The petitions alleged S.T. was physically abused by his parent and both J.M. and Y.T. were at a substantial risk of physical injury as evidenced by the physical abuse of their sibling. The trial court found probable cause to believe the children were abused and an immediate and urgent necessity existed to place them in the temporary custody and guardianship of the Department of Children and Family Services (DCFS).

¶ 6 In June 2009, the trial court found the minors were abused because of the abuse to S.T. and the substantial risk of abuse to both J.M. and Y.T. In its July 2009 dispositional orders, the court found respondent unfit. The court also found it in the minors' best interests that they be made wards of the court and placed in custody and guardianship with DCFS.

¶ 7 In January 2011, the State filed motions to terminate respondent's parental rights. The State alleged respondent was unfit because she failed to (1) maintain a reasonable degree of

interest, concern, or responsibility as to the minors' welfare (750 ILCS 50/1(D)(b) (West 2010)); (2) make reasonable efforts to correct the conditions that were the basis for the minors' removal from her (750 ILCS 50/1(D)(m)(i) (West 2010)); (3) make reasonable progress toward the minors' return within nine months after the adjudication of abuse (750 ILCS 50/1(D)(m)(ii) (West 2010)); and (4) make reasonable progress toward the minors' return during any nine-month period after the end of the initial nine-month period following the abuse adjudication (750 ILCS 50/1(D)(m)(iii) (West 2010)).

¶ 8 In June 2011, the trial court conducted a hearing on the motions to terminate parental rights. Erin Zimmer, a supervisor with Lutheran Child and Family Services (LCFS), testified she had been the case supervisor since November 2008. The January 2009 service plan required respondent to deal with issues involving parenting, mental health, counseling, anger management, housing, and employment. In May 2009, respondent received satisfactory ratings on most of her tasks except for counseling. Zimmer stated respondent attended visitations on a regular basis.

¶ 9 Laura Hacker, a caseworker at LCFS, testified she was assigned to the minors' case in May 2009. Respondent's service plan required her to undergo counseling, complete parenting and anger-management classes, attend visits, and maintain employment and housing. In November 2009, respondent was rated satisfactory as to all of her tasks except for parenting. During the next reporting period, respondent was rated unsatisfactory on the counseling task because she missed counseling from December 2009 through February 2010. She was rated unsatisfactory as to cooperating with the agency because she did not inform the agency when she moved. She was also rated unsatisfactory as to housing, employment, and parenting. Respon-

dent's November 2010 service plan was rated unsatisfactory. Hacker stated respondent moved to Harrisburg and discontinued services.

¶ 10 Ashley Bush, a foster care case manager at Camelot Care Centers, testified she was a case aide for J.M. and Y.T. from October 2009 through January 2010. She stated respondent attended about half of her visits. During the visits, Y.T. was "the main focus of attention" over J.M. Y.T. displayed sexualized behaviors. J.M. would "reach out for attention" but respondent "did not acknowledge him."

¶ 11 Respondent testified she was 34 years old. She stated she attended counseling, completed parenting classes, and addressed anger-management issues. She relocated to Harrisburg in July 2010 because she did not feel she was getting any support from family and friends in Springfield. She had difficulty visiting with her children in Peoria because of transportation issues.

¶ 12 Following closing arguments, the trial court found respondent unfit on the two grounds of reasonable progress. On November 2, 2011, the court conducted the best-interest hearing. Ashley Bush testified J.M. was then 10 years old, was mildly retarded, and lived in a specialized foster home in Peoria. He is in the fifth grade but functions at a kindergarten level. He has set a fire, stolen property, and acted out sexually. His sister, Y.T., lives with him and their foster mother. Y.T. was nine years old and has some behavioral issues for which she receives help.

¶ 13 Laura Hacker testified S.T. was 15 years old and was placed in Chicago with his uncle and his aunt. His foster parents are an adoptive placement, and S.T. has exhibited a "very strong" bond with them. Hacker stated S.T. had indicated he did not want to visit with respon-

dent and had not done so since November 2009.

¶ 14 Respondent testified she loved her children. She also stated she had made a good-faith effort to comply with her service plan. She thought her relationship with her children was good. It was her position that S.T. could "stay where he's at."

¶ 15 Following closing arguments, the trial court found the children have special needs that require "a lot of attention" and they have found that in their foster homes. The court found it in the minors' best interests that respondent's parental rights be terminated. Thereafter, the court admonished respondent as to her right to appeal. At the conclusion of the hearing, the court indicated it would "wait for the order." The court's handwritten order for the hearing indicated it had denied respondent's motions for directed verdict and found it in the minors' best interests that respondent's parental rights be terminated. The order, along with the docket entry, also stated "see further order."

¶ 16 On November 9, 2011, notices of appeal were filed. On November 30, 2011, the trial court signed orders terminating respondent's parental rights, noting the grounds of unfitness and the best-interests determination, continuing the minors as wards of the court, and giving DCFS the power to consent to the minors' adoption. These orders were filed on December 7, 2011. On December 13, 2011, an "appointment of counsel on appeal" was filed, which indicated defendant sought to appeal the trial court's orders entered on November 2, 2011.

¶ 17

## II. ANALYSIS

¶ 18 Although respondent contends the trial court's unfitness and best-interest findings were against the manifest weight of the evidence, the State argues this court should dismiss the appeals for lack of jurisdiction. We agree with the State and dismiss the appeals.

¶ 19

Illinois Supreme Court Rule 272 provides, in part, as follows:

"If at the time of announcing final judgment the judge requires the submission of a form of written judgment to be signed by the judge or if a circuit court rule requires the prevailing party to submit a draft order, the clerk shall make a notation to that effect and the judgment becomes final only when the signed judgment is filed." Ill. S. Ct. R. 272 (eff. Nov. 1, 1990).

A trial court's oral pronouncement is "not final, binding or appealable." *In re K.S.*, 250 Ill. App. 3d 862, 863, 620 N.E.2d 498, 499 (1993).

"The purpose of Rule 272 is to eliminate confusion as to the finality of judgments [citation] and resolve questions of timeliness of appeals where there is an oral announcement of judgment from the bench. [Citation.] In the time between the announcement of the judgment and the entry of the contemplated written and signed formal order, a party may not enforce the judgment, attack the judgment by motion, or appeal from the judgment. [Citation.] In such cases, the filing of a notice of appeal before the entry of the signed written order does not confer jurisdiction on an appellate court." *Northern Illinois Gas Co. v. Martam Construction Co.*, 240 Ill. App. 3d 988, 991, 608 N.E.2d 1271, 1273 (1993).

¶ 20

In the case *sub judice*, the trial court orally found it in the minors' best interests that respondent's parental rights be terminated on November 2, 2011. At the hearing, the court

indicated it would "wait for the order." The court's handwritten order of that date stated "see further order." Respondent's notices of appeal were filed on November 9, 2011. The court signed the termination orders on November 30, 2011, and they were filed on December 7, 2011.

¶ 21 Here, the notices of appeal were premature because the trial court's written orders terminating respondent's parental rights had not been filed. Thus, the notices of appeal did not confer jurisdiction on this court. See *In re B.D.*, 212 Ill. App. 3d 251, 254, 570 N.E.2d 1184, 1187 (1991) (finding the appellate court had no jurisdiction in the termination case because the notices of appeal had been prematurely filed).

¶ 22 As no amended notices of appeal have been filed, we lack jurisdiction and have no authority to reach the merits of these appeals. Instead, we can only second the admonition offered by this court in regard to juvenile cases and a parent's right to appeal the trial court's decision. "While litigants have the responsibility to exercise and preserve their own rights, in such important matters as parental rights and responsibilities, one would hope the court, counsel[,] and circuit clerk would cooperate to minimize the possibility of confusion and premature appeals." *K.S.*, 250 Ill. App. 3d at 863-64, 620 N.E.2d at 499.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we dismiss these consolidated appeals.

¶ 25 Appeals dismissed.