Third District Court of Appeal

State of Florida

Opinion filed October 28, 2026.
Not final until disposition of timely filed motion for rehearing.

No. 3D26-1246
Lower Tribunal No. D15-16021

L.C., the Mother,
Appellant,

vs.

Department of Children and Families, et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Michelle Alvarez Barakat, Judge.

Albert W. Guffanti, P.A., and Albert W. Guffanti, for appellant.

Sara Elizabeth Goldfarb and Laura J. Lee (Tallahassee), for appellee Guardian ad Litem; Karla F. Perkins, for appellee Department of Children and Families.

Before SCALES, C.J., and LOGUE and BOKOR, JJ.

PER CURIAM.

Appellant L.C. ("Mother") failed to appear at an April 17, 2026 adjudicatory hearing on appellee Department of Children and Families' ("DCF") petition to terminate Mother's parental rights for her minor child, A.I., ("TPR petition"). This resulted in a consent default.[1] The trial court thereafter entered an April 22, 2026 final judgment terminating Mother's parental rights. We affirm the trial court's denial of Mother's motion to vacate the consent

[1] See § 39.801(3)(e), Fla. Stat. (2026) ("If a parent appears for the advisory hearing and the court orders that parent to appear at the adjudicatory hearing for the petition for termination of parental rights, stating the date, time, and location of the hearing . . . , then failure of that parent to appear . . . at the adjudicatory hearing constitutes consent for termination of parental rights."); Fla. Dep't of Child. & Fam. Servs. v. P.E., 14 So. 3d 228, 235 (Fla. 2009) ("The Legislature has unequivocally provided that the parent's failure to personally appear evidences a parent's consent to the termination of his or her parental rights. The trial court's entry of the consent for the parent essentially constitutes entry of a default, i.e., a consent to the allegations in the petition and termination of parental rights.").

default[2] and the trial court's final judgment terminating Mother's parental rights.[3]

We remand, however, so the trial court may correct what appears to be inadvertent scrivener's errors contained in the Introduction section of the final judgment. The Introduction states that "[t]he Department is not seeking to terminate the mother's rights" and the "Court had the opportunity to listen

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[2] See P.E., 14 So. 3d at 236 ("Under [the three-part test], 'the party seeking to vacate the default [must] act with due diligence, demonstrate excusable neglect, and demonstrate the existence of a meritorious defense to the termination petition.'" (quoting E.S. v. Dep't of Child. & Fam. Servs., 878 So. 2d 493, 496 (Fla. 3d DCA 2004))); A.B. v. Dep't of Child. & Fams., 291 So. 3d 161, 164 (Fla. 5th DCA 2020) ("[Mother's] only attempt to address this third prong at the hearing consisted of a vague, underdeveloped suggestion of a potential defense to one of the three separate statutory grounds for termination of her parental rights alleged in DCF's petition. Mother failed to suggest the existence of any defense to the other two statutory grounds alleged by DCF. Under these circumstances, we conclude that the trial court did not abuse its discretion in denying Mother's 'Motion to Set Aside Default[.]'").

[3] See L.E. v. Dep't of Child. & Fams., 91 So. 3d 243, 244 (Fla. 4th DCA 2012) ("The final judgment was based on the mother's constructive consent to the Petition for Termination of Parental Rights and Permanent Commitment of Minor Child filed by the Department of Children and Families. By her consent to the petition for termination of parental rights, the mother acknowledged that a case plan would be futile and thus implicitly agreed that termination is the least restrictive means of protecting the child from harm."); In re G.M., 36 So. 3d 869, 872 (Fla. 2d DCA 2010) ("Although this court has concluded that the trial court must determine whether termination is in the manifest best interest of the child regardless of whether the parents participate in the final hearing, no such requirement exists regarding the issue of least restrictive means.") (citation omitted).

to, observe, and weigh evidence" on each of the grounds alleged in DCF's TPR petition. The Mother is correct that those statements are inaccurate. Indeed, DCF's TPR petition sought to terminate Mother's parental rights, and, by virtue of the consent default, the trial court heard no evidence below on the grounds alleged in DCF's TPR petition.[4] But these inadvertent mistakes do not constitute reversible error because they had no substantive effect on the trial court's analysis and decision. See T.V. v. Dep't of Child. & Fams., 318 So. 3d 649, 650 (Fla. 5th DCA 2021). We, therefore, affirm the final judgment and remand only for the correction of the scrivener's errors. Id.

Affirmed and remanded with instructions.

[4] See P.E., 14 So. 3d at 236 ("With the finding that the mother constructively consented to termination and with no objection being made to the termination by any other party, no purpose would have been served by requiring [DCF] to present evidence regarding the statutory grounds for termination.").