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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2007-2008

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C.D.H. and K.E.H.

v.

Marion County Department of Human Resources

Appeal from Marion Juvenile Court
(JU-06-168.04)

BRYAN, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(C), Ala. R. App. P.; Ex parte State Dep't of Human Res., 834 So. 2d 117, 120-21 (Ala. 2002); Ex parte Bryowsky, 676 So. 2d 1322, 1324 (Ala. 1996);

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Diggs v. Diggs, 910 So. 2d 1274, 1275 (Ala. Civ. App. 2005);
and Woods v. Woods, 653 So. 2d 312, 314 (Ala. Civ. App. 1994).

Thompson, P.J., and Pittman and Thomas, JJ., concur.

Moore, J., concurring specially.

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MOORE, Judge, concurring specially.

I concur to affirm the juvenile court's judgment denying custody to the great aunt and great uncle of a dependent child. I write specially to point out that, in September 1999, the Alabama Legislature enacted § 38-12-1 et seq., Ala. Code 1975, establishing the "Kinship Foster Care Program." Section 38-12-2(c), Ala. Code 1975, provides that the State Department of Human Resources ("DHR") "shall establish eligibility standards for becoming a kinship foster parent." However, in the nearly nine years since this act took effect, DHR has not promulgated eligibility standards or adopted rules and regulations specifically applicable to this program.¹

Section 12-15-71(a)(3)c., Ala. Code 1975, also requires DHR to investigate relatives of a dependent child to determine if the relatives are "qualified" to receive and care for the child. The term "qualified" is not defined in the statute or in the corresponding regulations promulgated by DHR. In order

¹A review of the Alabama Administrative Code revealed only three regulations promulgated by DHR's Social Services Division referring to kinship foster care: Ala. Admin. Code, Rule 660-5-47-.02, Rule 660-5-50-.03, and Rule 660-5-50-.05. However, those regulations do not establish standards specifically applicable to the Kinship Foster Care Program.

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to comply with the federal Adoption and Safe Families Act, 42 U.S.C. § 671, DHR adopted certain criteria governing who may be considered for foster care; those criteria are found in Ala. Admin. Code, Rule 660-5-29-.01 et seq. (DHR Social Services Div.). However, those criteria have not been made specifically applicable to relative placements or to the Kinship Foster Care Program.

I have previously pointed out DHR's failure to act on this legislative mandate. See, e.g., J.B. v. Cleburne County Dep't of Human Res., [Ms. 2060709, March 21, 2008] ___ So. 2d ___ (Ala. Civ. App. 2008) (Moore, J., writing for the court); and K.N.F.G. v. Lee County Dep't of Human Res., [Ms. 2060355, Aug. 3, 2007] ___ So. 2d ___ (Ala. Civ. App. 2007) (Moore, J., dissenting). I again urge DHR to comply with § 38-12-2(c) by establishing eligibility standards for becoming a kinship foster parent.