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NO. COA08-1024-2

NORTH CAROLINA COURT OF APPEALS

Filed: 22 December 2009

IN THE MATTER OF:

R.A.E.,
A Minor Child.

Wilkes County
No. 02 JT 218

Appeal by Respondent from order entered 20 May 2008 by Judge Jeanie R. Houston in District Court, Wilkes County. Originally heard in the Court of Appeals 30 December 2008, with opinion filed 20 January 2009. Reconsidered pursuant to an order of the North Carolina Supreme Court, entered 27 August 2009.

Paul W. Freeman, Jr. for Petitioner-Appellee Wilkes County Department of Social Services and Guardian ad Litem.

Robert W. Ewing for Respondent-Appellant.

McGEE, Judge.

Our Court originally filed its opinion in this case on 20 January 2009, vacating the order of the trial court terminating Respondent's parental rights to R.A.E. *In re R.A.E.*, 2009 N.C. App. LEXIS 87 (N.C. Ct. App., Jan. 20, 2009) (*In re R.A.E. I*). Our Court's holding was based upon deficiencies in the verification of two juvenile petitions filed by the Wilkes County Department of Social Services alleging R.A.E. was neglected. We held that absent proper verification, the petitions alleging neglect filed in this case failed to invoke the subject matter jurisdiction of the trial

court and, therefore, all subsequent orders of the trial court in the matter were void *ab initio*. See *In re A.J.H.-R.*, 184 N.C. App. 177, 178-79, 645 S.E.2d 791, 792 (2007); *In re T.R.P.*, 360 N.C. 588, 593-94, 636 S.E.2d 787, 791-92 (2006).

Respondent filed a petition for discretionary review with our Supreme Court on 13 February 2009, requesting our Supreme Court to review our Court's 20 January 2009 opinion, based in part on our Supreme Court's holding in *In re K.J.L.*, 363 N.C. 343, 677 S.E.2d 835 (2009). Our Supreme Court allowed Respondent's petition for discretionary review "for the Limited Purpose of Remanding to the Court of Appeals for Reconsideration in light of [*In re*] *K.J.L.*" *In re R.A.E.*, 363 N.C. 582, 682 S.E.2d 387 (2009). *In re K.J.L.* involved deficiencies in summonses issued following the proper filing of a juvenile petition alleging abuse and neglect. The Supreme Court held in *In re K.J.L.*:

Because the purpose of the summons is to obtain jurisdiction over the parties to an action and not over the subject matter, summons-related defects implicate personal jurisdiction and not subject matter jurisdiction. Any deficiencies in the issuance and service of the summonses in the neglect and TPR proceedings at issue in this case did not affect the trial court's subject matter jurisdiction, and any defenses implicating personal jurisdiction were waived by the parties.

In re K.J.L., 363 N.C. at 348, 677 S.E.2d at 838.

The case before us does not involve any alleged deficiencies in summonses, but instead involves improper verification of juvenile petitions. Our Supreme Court has held that proper "[v]erification of a juvenile petition is no mere ministerial or

procedural act[.]" *In re T.R.P.*, 360 N.C. at 591, 636 S.E.2d at 790. "A trial court's subject matter jurisdiction over all stages of a juvenile case is established when the action is initiated with the filing of a properly verified [juvenile] petition[;]" in this case, a juvenile petition alleging neglect. *Id.* at 593, 636 S.E.2d at 792.

We therefore hold that because *In re K.J.L.* involves summonses, not the proper verification of juvenile petitions, *In re K.J.L.* is not controlling in the case before us. We continue to be bound by the holdings in *In re T.R.P.* and other cases cited in our earlier opinion. Upon reconsideration, we reaffirm our holding in *In re R.A.E.* I vacating the 20 May 2008 order terminating Respondent's parental rights.

Vacated.

Judges ELMORE and STROUD concur.

Report per Rule 30(e).