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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-103

No. COA21-564

Filed 15 February 2022

Mecklenburg County, No. 20 JA 315

IN THE MATTER OF: E.M.

Appeal by respondent mother from orders entered 19 April 2020 and 2 July 2021 by Reggie E. McKnight in Mecklenburg County District Court. Heard in the Court of Appeals 26 January 2022.

*Kristina A. Graham for petitioner-appellee Mecklenburg County Department of Social Services.*

*Freedman Thompson Witt Ceberio & Byrd, PLLC, by Christopher M. Watford, for respondent-appellant mother.*

*Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by Michael W. Mitchell and Amelia L. Serrat, for guardian ad litem.*

MURPHY, Judge.

¶ 1

For a trial court to have subject matter jurisdiction over an abuse, neglect, or dependency case, a petitioner must file a properly verified juvenile petition under N.C.G.S. § 7B-403. Here, where the juvenile petition filed before the trial court was not signed by the designee of the Director of the Mecklenburg County Department of Social Services, we must vacate the trial court's adjudication order for lack of subject

matter jurisdiction.

### **BACKGROUND**

¶ 2 Mother timely appeals from an order of the trial court finding “that [Tammy<sup>1</sup>] is a neglected juvenile because . . . she . . . lived in an environment injurious to her welfare” based on a series of injuries sustained while she was living with Mother in the first months of her life. The case was initiated on 17 July 2020 when Mecklenburg County Youth and Family Services filed a juvenile petition to invoke “the juvenile jurisdiction of the court.” The petition was not signed by the designee of the Director of the Mecklenburg County Department of Social Services.

### **ANALYSIS**

¶ 3 Mother argues on appeal that the trial court lacked subject matter jurisdiction because the juvenile petition, which confers subject matter jurisdiction on the adjudicating court, was not properly verified, and the trial court erred in concluding that Tammy was a neglected juvenile because its conclusion was not supported by adequate findings of fact.

¶ 4 We agree the trial court lacked subject matter jurisdiction. Under N.C.G.S. § 7B-403(a),

[a]ll reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of

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<sup>1</sup> Pseudonyms are used for all relevant persons throughout this opinion to protect the identity of the juvenile and for ease of reading.

the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be drawn by the director, verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing.

N.C.G.S. § 7B-403(a) (2021). Our Supreme Court has consistently held that North Carolina courts lack subject matter jurisdiction over an abuse, neglect, and dependency action unsupported by a properly verified petition pursuant to N.C.G.S. § 7B-403. *In re T.R.P.*, 360 N.C. 588, 593-94, 636 S.E.2d 787, 791-92 (2006); *In re N.T.*, 368 N.C. 705, 707-08, 782 S.E.2d 502, 504 (2016).

¶ 5

All parties in this case agree the petition was improperly verified because it was not signed by the designee of the Director of the Mecklenburg County Department of Social Services. Moreover, there is no contention—nor is it the case—that the defective petition in this case was “facially valid.” *See In re N.T.*, 368 N.C. at 708, 782 S.E.2d at 504 (finding subject matter jurisdiction where allegations of irregularity in a juvenile petition were purely speculative). Accordingly, we must vacate the order of the trial court and remand for dismissal.

¶ 6

Having determined the trial court lacked subject matter jurisdiction, we need not address Mother’s second argument on appeal, as the order is a nullity and the issue moot. *See In re T.R.P.*, 360 N.C. at 590, 636 S.E.2d at 790 (“Subject matter jurisdiction is the indispensable foundation upon which valid judicial decisions rest, and in its absence a court has no power to act[.]”); *Cumberland Cnty. Hosp. Sys., Inc.*

IN RE: E.M.

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*Opinion of the Court*

*v. N.C. Dep't of Health & Human Servs.*, 242 N.C. App. 524, 528, 776 S.E.2d 329, 333 (2015) (citing *Roberts v. Madison Cnty. Realtors Ass'n, Inc.*, 344 N.C. 394, 398-99, 474 S.E.2d 783, 787 (1996)) (“A case is ‘moot’ when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy.”).

VACATED AND REMANDED.

Judges DILLON and ZACHARY concur.

Report per Rule 30(e).