

[REDACTED]

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, STATE OF FLORIDA
JUVENILE DIVISION

IN THE INTEREST OF:

CASE NO.: [REDACTED]

[REDACTED] and [REDACTED]
_____ /

**ORDER OF ADJUDICATION OF DEPENDENCY
AND RULING ON DEFERRED RULING ON JUDICIAL REVIEW**

THIS CAUSE came before this Court on the [REDACTED] day of [REDACTED], [REDACTED] under Chapter 39, Florida Statutes, for an Adjudicatory Hearing of the Petition for Dependency by the Mother. The Court, having reviewed the Petition, having heard testimony and argument of counsel, finds by a preponderance of the evidence as follows:

- 1. Persons Present at the Adjudicatory Hearing:** The following persons were duly noticed and present:

Attorney for the Department:
FRC Child Welfare Case Manager:
Mother:
Attorney for Mother:
Father:
Attorney for Father
Attorney for Child, [REDACTED]
Attorney for the Child [REDACTED]
Legal Custodian:

[REDACTED]
[REDACTED]
Lucia Piniero, Esq.
[REDACTED]
[REDACTED]
[REDACTED]
Mother

- 2. Counsel for Parents:** The parents were represented by counsel throughout the whole proceedings.
- 3. Adjudication Based on the Court's Findings After Adjudicatory Hearing:**
The Mother has proven by a preponderance of the evidence that the children are dependent at the Adjudicatory Hearing as to the Father, [REDACTED].
- 4. Findings of Fact:** This case has been going on for so long that some background is needed.
- a. On [REDACTED], the Superior Court of [REDACTED] n, [REDACTED] County, Case No. [REDACTED]-[REDACTED] declined UCCJEA jurisdiction the proceedings and determined that

Florida was the children's home state and the [REDACTED] court stayed proceedings in the [REDACTED] proceeding related to custody and visitation pending the resolution of a lawsuit involving the spouse in Florida entitled [REDACTED] v. [REDACTED] filed in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. [REDACTED]; and related dependency proceeding filed in Miami-Dade County, Florida, Case No. [REDACTED].

- b. On [REDACTED], the Florida Department of Children and Families (hereafter "DCF") filed a Verified Petition of Dependency as to the Father of the minor children, [REDACTED], twin boys, whose date of birth is [REDACTED]. The Mother was and continued to be an uncharged parent in the dependency proceeding.
- c. This case came to be heard on [REDACTED] for adjudicatory trial. The father consented to the allegations of the Department Petition in its entirety. The Court conducted a full colloquy of the Father, and upon DCF's agreement, entered a Withhold of Adjudication as to the Father. Specifically, the Father pled to the following language.
The children are dependent within the meaning and intent of Florida Statutes Section 39.01(44) due to the CPT's finding that the children were malnourished and the uncharged Mother, [REDACTED] petition for protection against domestic violence that has caused or threatens to cause the children's physical, mental or emotional health to be significantly impaired or to be in danger of being significantly impaired, thereby placing the children at substantial risk neglect and abuse.
- d. The Court also ratified the parties/parents' medication agreement. The case was set for [REDACTED] for the submission of an Adjudicatory Case Plan. On [REDACTED] The case was heard before General Magistrate [REDACTED], who made changes to the proposed Case Plan and included additional language as to the case plan task regarding the Father attending and completing individual counseling with a master's level therapist, stating that the Father shall demonstrate improvement of concerns raised in Dr. [REDACTED] first evaluation conducted in [REDACTED].
- e. Thereafter, every Case Plan was accepted by the Court ordered that the Father attend and successfully complete Individual Counseling with a master's level therapist.
- f. There has been six Case Plans hearings since that withhold of adjudication. There have been seven judicial review hearings.

- g. During all this time, the Children have been in the Mother's custody and have visited with the Father. There has been much "drama" during that time. The commencement of the case set the mood for the case: clearly non-cooperation, drama and hostility. There have been various DCF investigations, various visits to the Child Protective Team and various changes to the visits, both telephonically and in person with the Father. There is no doubt in the Court's mind that there is much love by both parents for these children, but there is also much animosity and resentment by both parties for each other. The one thing that is clear to this Court is the Children need permanency, the Children are not to blame for the parents' choices, and the Children's best interest is tantamount to this Court.
- h. The issues that are to be decided by this Court are as follows:
1. Whether the Court should adjudicate the children dependent as to the Father pursuant to the Florida Statutes, Chapter 39.507 (5) based upon the Father's non-compliance.
 2. Whether the Court should adjudicate the children dependent as to the Father pursuant to the Florida Statutes, Chapter 39.507 (5) based upon a finding that the Father has not complied with the conditions of the supervision imposed by the Court.
 3. Whether the Court may grant the termination of supervision in this case without first addressing the child custody issues, which include the parent's visitation with the children.
 4. Whether the Father should be granted supervised or unsupervised visitation with the children, and what conditions, if any, should be imposed regarding the Father's visitation with the children.
- i. Despite the many objections, distractions and attempts to detour the focus of the case, the Court tried to have the parties focus on the issues before the Court.
- j. This is a unique case in the sense that the Department has taken no position as to the adjudication of the parents, and wishes for the case to simply close. The Guardian ad Litem program has also withdrawn from the case. The pro bono Attorneys Ad Litem in the case also wish for the case to close. The Father's position is a bit more complex, because the Father says he wishes for the case to close, but insists that both parents need

services in order to better parent the children. It is like he wants “his cake and to eat it too.” It is the Mother who is filing this petition.

- k. The first witness in this case was the case manager from FRC, [REDACTED], Ms. [REDACTED] spent hours on the stand, and never diverted from her position that although the Children are safe in the custody of the Mother, the parents do need services to parent these children.
- l. The Court finds the Mother’s testimony, although credible, it is clear that the Mother will never find anyone who will parent her children, as well as she will. (at least in her mind). This is true of many mothers. Although it is clear that the Mother has very high expectations of the Father when it comes to parenting their children, no one can blame her. There is one shot at parenting and the consequences of bad parenting can have disastrous irreversible effects.
- m. The Father made it clear to the Court that the focus of his case was what Dr. [REDACTED] recommended. The Father forgot to bring up, however, that what Dr. [REDACTED] recommended as to the Father and to his insight was a recommendation in a report over a year ago. Dr. Malik made it very clear in the present testimony that TODAY it is clear that the “dad cannot cope with what is happening and he cannot deal with parenting.” She went on to recommend that the Father needs individual counseling, evidence based parenting, co-parenting, as well, as pay child support, obtain and/or maintain housing, show parental responsibility and exercise supervised visitation.
- n. If the Court had any doubt whether to adjudicate the children dependent as to the Father, the Father’s own testimony erased any doubt from the Court’s mind. Some of the Father’s testimony made little sense. For example, the Father claims that the Mother has done everything in her power to alienate him and talk negatively to their children about him, but then he claims that the children ran to him and hugged him when he had not seen them in ten months. It is unlikely that the kids ran to the Father with such joy after not seeing him for ten months, unless the opposite is actually true, that the Mother praises the Father when they are away from him. (The kids are only four years old, 10 months is almost a fourth of their life without seeing their father).
- o. The Father also testified that he wants the case to close, but feels that both he and the Mother need services. When asked why he had not done some of the services, the

Father's testimony was "he had not done services yet because the case is still open." That made no sense. The Court inquired a few times of the Father as to this, and his answer never wavered. The Father has done services, but he has done the services of his choice, and none of which appear to be evidence based. The Father has been discharged from services, but he was unable to produce any witness, any evidence, or even provide his own testimony as to if he was ever "successfully" discharged. It seems the Father was simply asked not to go anymore to certain services or was dismissed for lack of attendance.

- p. When asked by his own attorney what insight he had gained from the services he had chosen himself, he very proudly articulated that he had learned quite a bit from his services. However, when the Court insisted to give examples, the Father stated that he did not learn "really about the kids"... he learned how to "meditate for his own wellbeing," he learned "to see things objectively," he learned to "write reports to keep the mom informed," he learned to be "less affected by what others do," he learned to "pick his own battles," and he learned to use Skype. The only time he mentioned his children, he stated that he learned that the kids really did need speech therapy. When the Court asked him "so you learned a lot about yourself and how to take care of yourself." He proudly said YES! The Court is not at all dismissing self-care, but THIS case is about the children.
- q. The Court sees no need to summarize what all the other parties testified to, or to discuss each aspect of each witness' testimony, suffice it to say the Court considered all the testimony and evidence presented.

In sum, the issues as presented to this Court, as well as the ruling of each issue are as follows:

1. Whether the Court should adjudicate the Children dependent as to the Father, pursuant to the Florida Statutes, Chapter 39.507 (5), based upon the Father's non-compliance. **The Court rules that YES, the children should be adjudicated dependent, as to the Father.**
2. Whether the Court should adjudicate the children dependent as to the Father pursuant to the Florida Statutes, Chapter 39.507(5) based upon the finding that the

Father has not complied with the supervision imposed by the Court. **The Court rules YES.**

3. Whether the Court may grant the termination of supervision in this case without first addressing the child custody issues, which include the parent's visitation with the children. **The Court can terminate supervision in this case; however, in the Court's mind, it makes little, if any sense to do so. The Father should not be deprived of having a relationship with his Children, a substantial positive relationship. The Father clearly needs services to obtain this relationship.**
4. Whether the Father should be granted supervised or unsupervised visitation with the Children, and conditions, if any, should be imposed regarding the Father's visitation with the children. **The Court grants supervised visitation at this time. The Father should maintain the same visitation as he has at this time. However, a therapist should evaluate both the Father and the Children to determine if and when family therapy can be introduced to this family.** The Court further orders that the Father should engage in **evidence based parenting, individual counseling, co-parenting with the Mother, pay child support, maintain housing, show parental responsibility and supervised visitation.**
- r. The Court has also reviewed the case law submitted by the Father's attorney, but does not find it either binding or relevant to this case.
 5. **As to the Judicial Review that was deferred, the Court rules as following:**
 1. The findings as to the Mother are no findings, she is uncharged.
 2. The findings as to the Father, are non-compliance. The Court recognizes that the Father has done some services, but clearly has gained little to no insight, as even testified by Dr. [REDACTED] (which seemed to be the Father's star witness.) None of the services done were court approved or evidence based. There was no testimony of any child support having been paid. Visitation seems to be sporadic at best, (even with the Skype visits).
 3. The department is in compliance.
 4. The children are appropriately placed.
 6. **Jurisdiction:** The minor children are of ages subject to the jurisdiction of this Court.

7. **Placement: In-Home Placement:** It is in the best interests of the children to remain in the custody of the Mother. The Children are safe with the Mother. The Court recognizes what the Father's attorney kept bringing up that the Children were not abused, abandoned or neglected TODAY. The Father's attorney insisted the Children are not malnourished TODAY. However, this does not help the Father or change the Court's ruling because the very reason for this might be that it is because the children are in the Mother's custody. The Children have two parents, and they should both be involved, so long as the Children are safe in the custody of both parents. The Court is confident that if the Father avails himself of the court ordered evidence based services, he too will be able to participate in the lives of the Children.

THEREFORE, based upon the foregoing findings, it is hereby **ORDERED AND ADJUDGED** that:

1. The children, [REDACTED] and [REDACTED] are adjudicated dependent and placed in the temporary custody of the Mother.
2. **Consent to Treatment:** There is no need to address this issue as the Mother has custody of the Children and can make these decisions. The Father should be informed of any medical decisions pertaining to the children.
3. **Prior Orders.** All prior orders not inconsistent with this present order shall remain in full force and effect.
4. **Retention of Jurisdiction.** The Court retains jurisdiction over the parties hereto and subject matter hereof to make such other and further Orders as the Court may deem necessary and proper.
5. **Child Support Jurisdiction.** Child support will be assessed at the next hearing.
6. **Removal of Child from Jurisdiction:** The child shall not be removed from the Court's jurisdiction without first obtaining the permission of the Court.
7. **Case Plan Hearing:** A Case Plan hearing is scheduled for [REDACTED] at [REDACTED] m.
8. **Report of Missing Child:** The custodians of any child subject to the jurisdiction of this Court are hereby directed to notify local law enforcement and the Department of Children

