

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

2026 CJ 0215

STATE OF LOUISIANA IN THE INTEREST OF Z.R.

Judgment Rendered: SEP 24 2026

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On Appeal from the Juvenile Court
In and for the Parish of East Baton Rouge
State of Louisiana
Docket No. 13204

Honorable Gail Grover, Judge Presiding

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* * * * *

BEFORE: THERIOT, BALFOUR, AND HAGGERTY,¹ JJ.

¹ The Honorable Bryan D. Haggerty is serving *ad hoc* by appointment of the Louisiana Supreme Court.

Theriot, J. disagrees with verbiage

HAGGERTY, J.

The Louisiana Department of Children and Family Services (DCFS) appeals the trial court judgment that dismissed its petition to terminate the parental rights of J.R. to her minor child, Z.R.² For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Z.R. was born on August 26, 2024, while her mother, J.R., was incarcerated at East Baton Rouge Parish Prison. Z.R. entered DCFS custody on or about August 31, 2024, because there was not a suitable caretaker when Z.R. was ready for discharge from the hospital where she was born. The record reflects that Z.R. was adjudicated a child in need of care (CINC) on November 21, 2024. The trial court continued custody of Z.R. with DCFS at a case review hearing on February 20, 2025, as well as at a case review and permanency hearing on September 30, 2025. At the September 30, 2025 hearing, the trial court found that the permanent plan that was most appropriate and in Z.R.'s best interest was adoption concurrent with reunification.

DCFS filed a petition for termination of parental rights on August 22, 2025, seeking to terminate the parental rights of J.R.; the named father, D.R.; an alleged father, C.M.;³ and any unknown father of Z.R. With respect to J.R., DCFS requested that her parental rights be terminated pursuant to La. Ch.C. art. 1015(3)(k), alleging that J.R.'s parental rights to Z.R.'s siblings had been terminated due to neglect or abuse, prior attempts to rehabilitate J.R. had been unsuccessful, and the court had determined pursuant to La. Ch.C. art. 672.1 that current attempts to reunite the family were not required. DCFS additionally requested that J.R.'s parental rights be terminated pursuant to La. Ch.C. art. 1015(5), alleging that Z.R. had been in DCFS

² We use the initials of the minor child and the parents to ensure confidentiality and to protect the minor's identity. See Uniform Rules—Courts of Appeal, Rules 5-1 and 5-2.

³ C.M. was dismissed on DCFS's motion at a September 30, 2025 hearing.

custody since August 31, 2024; J.R. had been incarcerated since April of 2024, did not have a release date, and was unable to work services during her incarceration; and there was no reasonable expectation of significant improvement in J.R.'s condition or conduct in the near future due to her parental rights having been terminated as to her other three children.

The hearing on the petition for termination of parental rights was originally set for hearing on November 20, 2025, but was continued to December 2, 2025. Based on the evidence presented, the trial court found that DCFS did not prove by clear and convincing evidence the alleged grounds set forth in La. Ch.C. arts. 1015(3)(k) or 1015(5), nor that it would be in Z.R.'s best interest to terminate J.R.'s parental rights without allowing J.R. an opportunity to make additional efforts towards reunification. The trial court signed a judgment in accordance with its ruling on December 8, 2025, denying the petition to terminate J.R.'s parental rights.⁴ An amended judgment that dismissed DCFS's petition as to J.R. was signed on June 30, 2026.⁵

DCFS appeals, contending the trial court committed manifest error by finding it failed to meet the burden of proof necessary to terminate J.R.'s parental rights pursuant to La. Ch.C. arts. 1015(3)(k) and (5), and by finding DCFS did not meet its burden of proof that the termination of J.R.'s parental right as to Z.R. was in the best interest of Z.R.

LAW AND ANALYSIS

In a case to involuntarily terminate parental rights, there are two private interests involved: those of the parents and those of the child. *State ex rel. L.B. v.*

⁴ The same December 8, 2025 judgment terminated the parental rights of D.R., who did not appeal the judgment. The judgment is final as it relates to termination of his parental rights. *See State in Interest of A.B.*, 2023-0655 (La. App. 1 Cir. 1/19/24), 383 So. 3d 933, 935 n.2, writ denied, 2024-00221 (La. 3/7/24), 380 So. 3d 552.

⁵ This court issued an interim order on June 15, 2026, noting the absence of appropriate decretal language dismissing the petition as to J.R.

G.B.B., 2002-1715 (La. 12/4/02), 831 So. 2d 918, 921. In *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982), the United States Supreme Court recognized parents have a natural, fundamental liberty interest to the continuing companionship, care, custody, and management of their children. These interests warrant great deference and require full, vigilant due process protection that fair procedure be followed when the State seeks to terminate the parent-child legal relationship. Balanced against those protections is the child's profound interest in terminating parental rights which prevent adoption and hamper the establishment of secure, stable, long-term, and continuous relationships found in a home with proper parental care. *State ex rel. L.B.*, 831 So. 2d at 921. In balancing the parents' and the child's interests, the courts of this state have consistently found the interests of the child to be paramount over those of the parents. *Id.*

Title X of the Louisiana Children's Code governs the involuntary termination of parental rights. Louisiana Children's Code article 1015 provides the statutory grounds by which a court may involuntarily terminate the rights of parents. In order to terminate a person's parental rights, the court must find the State has established at least one of the statutory grounds contained in Article 1015 by clear and convincing evidence. See La. Ch.C. art. 1035(A); *State in Interest of C.F.*, 2017-1054 (La. 12/6/17), 235 So. 3d 1066, 1072. Even upon finding the State has met its evidentiary burden, a court may not terminate parental rights unless it determines that to do so is in the child's best interest. See La. Ch.C. art. 1037(B). Whether termination of parental rights is warranted is a question of fact, and a trial court's factual determinations will not be set aside in the absence of manifest error. *State in Interest of E.O.*, 2018-1093 (La. App. 1 Cir. 2/6/19), 272 So. 3d 552, 556. Under the manifest error standard, this Court does not decide whether the factfinder was right or wrong; rather, we are required to consider the entire record to determine whether a reasonable factual basis exists for the finding, and whether the finding is

manifestly erroneous or clearly wrong. *State in Interest of H.R.*, 2021-1328 (La. App. 1 Cir. 2/25/22), 341 So. 3d 592, 598. If the conclusion is reasonable in light of the record viewed in its entirety, the court of appeal may not reverse, even if convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. *State in Interest of H. M. R.*, 22-176 (La. App. 5 Cir. 1/11/23), 356 So. 3d 1179, 1184.

Grounds for Termination Under La. Ch.C. art. 1015(3)(k)

In the instant case, DCFS sought termination of J.R.’s parental rights under La. Ch.C. art. 1015(3)(k), which provides, in pertinent part:

The grounds for termination of parental rights are:

* * *

(3) Misconduct of the parent toward this child or any other child of the parent or any other child which constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including but not limited to the conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:

* * *

(k) The parent’s parental rights to one or more of the child’s siblings have been terminated due to neglect or abuse, prior attempts to rehabilitate the parent have been unsuccessful, and the court has determined pursuant to Article 672.1 that current attempts to reunite the family are not required.

Louisiana Children’s Code art. 672.1 provides, in pertinent part:

A. At any time in a child in need of care proceeding when a child is in the custody of the department, the department may file a motion for a judicial determination that efforts to reunify the parent and child are not required.

B. The department shall have the burden of demonstrating by clear and convincing evidence that reunification efforts are not required, considering the health, welfare, and safety of the child and the child’s need for permanency.

C. Efforts to reunify the parent and child are not required if a court of competent jurisdiction has determined that:

* * *

(4) The parental rights of the parent to a sibling have been terminated involuntarily.

D. If the court determines that reunification efforts are not required, it shall document that determination by written findings of fact. A permanency hearing, which considers in-state and out-of-state permanent placement options for the child, may be conducted immediately and shall be conducted within thirty days after the determination.

Thus, in order to satisfy its burden under Article 1015(3)(k) in this case, DCFS was required to prove by clear and convincing evidence: (1) J.R.'s parental rights to one or more of Z.R.'s siblings were terminated due to neglect or abuse; (2) prior attempts to rehabilitate J.R. were unsuccessful; and (3) the court has determined, pursuant to La. Ch.C. art. 672.1, that current attempts to reunite the family are not required. See *State in Interest of G.K.*, 2024-0163 (La. App. 4 Cir. 6/26/24), 399 So. 3d 433, 438-39, writ denied, 2024-00947 (La. 9/17/24), 392 So. 3d 891.

At the termination hearing, the DCFS case worker testified that she became involved with the case on May 27, 2025, while J.R. was incarcerated at East Baton Rouge Parish Prison. The case worker testified that in her review of the case record, she learned that J.R.'s parental rights to three of her children had previously been terminated. In connection with her testimony, DCFS submitted into evidence a February 12, 2024 judgment that terminated J.R.'s parental rights to three of her children, Ho.B., Hi.B., and Ha.B., and freed them for adoption. The judgment indicated that J.R. was not present for the hearing. According to the case worker, the judgment terminating J.R.'s parental rights to Ho.B., Hi.B., and Ha.B., along with J.R.'s incarceration, "opened the door" for DCFS to file the petition for termination.

According to the case worker, she first met with J.R. at the courthouse in June or July of 2025 and provided J.R. with a copy of the case plan, but did not discuss

J.R.'s ability to complete services while incarcerated.⁶ The case worker testified that she received a call from J.R. on October 31, 2025, when J.R. was released from prison. J.R. advised the case worker that she was going to Apollo Behavioral Health Hospital. According to the case worker, she received a voice message from J.R. on either November 4 or 5, 2025, but when the case worker called back, J.R. had been discharged from Apollo. According to the case worker, she next spoke to J.R. at the November 20, 2025 court date. The case worker testified that J.R. was living with her brother, who was the subject of an open DCFS investigation, and that the brother's house would not be safe housing for Z.R.

According to the case worker, while J.R. was incarcerated, J.R. participated in video visitation with Z.R. J.R. participated in her first in-person visitation with Z.R. the week before the termination hearing. The case worker testified that Z.R. was "a little bit hesitant at first," but started to play with J.R. The case worker further testified that Z.R. was placed with a certified foster parent when she came into DCFS's care, had been with the same foster parent throughout the case, and was in an adoptive placement.

J.R. testified that she was incarcerated when Z.R. was born, and she had contacted her own foster mother, T.P., to care for Z.R., but T.P. would not take Z.R. because T.P. was caring for Ho.B., Hi.B., and Ha.B. J.R. testified that she had been staying with T.P. in 2014, after one of J.R.'s children died of SIDS.⁷ According to J.R., she had a nervous breakdown and went into rehab because she was grieving over the loss of her baby. J.R. testified that when she was in the hospital, T.P. was taking care of Ho.B., Hi.B., and Ha.B. J.R. further testified that she was not aware that her parental rights to Ho.B., Hi.B., and Ha.B. were terminated and that T.P. adopted them until J.R. came to court in the instant case. According to J.R., she was

⁶ The record does not contain a copy of the case plan.

⁷ J.R. testified another of her children had also died of SIDS.

in the hospital in a coma, knew her children were with T.P., in a role that J.R. assumed was as their grandmother, went to jail, and then learned that she had lost her rights to Ho.B., Hi.B., and Ha.B.

J.R. testified that she was arrested for outstanding charges dating from 2010 to 2023, was incarcerated for four months, and was released on March 15, 2023. She went to jail again on April 7, 2024, and was released on October 30, 2025. One of the charges for which she was incarcerated was attempted second degree murder involving Z.R.'s named father. J.R. testified that she was given a case plan while she was in jail and attended parenting and anger management classes and underwent mental health evaluations. One of the conditions of her release on October 30, 2025 was that she go to Apollo for counseling. She was released from Apollo after seven days. According to J.R., she was diagnosed with depression and bipolar disorder when she was a child in foster care, but she did not believe that she had either disorder. She testified she is on medication, which she takes daily, and continues to follow-up with Apollo.

J.R. further testified that upon her release from Apollo, she began living with her brother. She testified that she was approved for housing through the YMCA, but needed Z.R.'s birth certificate in order to receive the correct housing placement. According to J.R., she did not receive a copy of Z.R.'s birth certificate while she was in jail and had requested one from her DCFS case worker, but the case worker had not responded to the request. J.R. testified that she received social security but had been placing applications for employment and would likely start a new job soon. J.R. testified she wanted an opportunity to have Z.R. with her and believed she had the ability to provide a safe and stable environment for Z.R. if she was given more time. J.R. testified that she loved Z.R. but had not had a chance to get to know her.

At the conclusion of the hearing, the trial court indicated that after listening to and observing J.R., it found her to be a credible witness. The trial court noted that

J.R. testified she attended parenting and anger management classes and cooperated with mental health evaluations while she was in jail, even though she did not yet have a case plan. The trial court further noted that J.R. was present at the CINC hearings concerning Z.R., had virtual communication and visits with Z.R. while she was incarcerated, and upon her release, attended in-person visitation with Z.R. when the opportunity was made available. The trial court also noted that upon her release, J.R. followed the recommendation that she stay seven days at Apollo for her mental health.

The trial court addressed DCFS's request to terminate J.R.'s parental rights under La. Ch.C. art. 1015(3)(k). It found DCFS proved that J.R.'s parental rights to three of Z.R.'s siblings were terminated due to neglect and that it had previously granted DCFS's motion under La. Ch.C. art. 672.1, relieving DCFS of making additional efforts for reunification. However, the trial court determined DCFS failed to prove that prior attempts to rehabilitate J.R. were unsuccessful. The trial court noted that the case worker testified that the termination of J.R.'s parental rights to her other three children "opened the door" to terminate J.R.'s rights to Z.R. While agreeing that the prior termination did "open the door," the trial court found DCFS had a burden to show previous efforts at rehabilitation were unsuccessful, but failed to present testimony or other evidence of a prior unsuccessful attempt to rehabilitate J.R., as required by La. Ch.C. art. 1015(3)(k). Thus, the trial court concluded DCFS failed to establish each of the elements of La. Ch.C. art. 1015(3)(k), and denied its petition to terminate J.R.'s parental rights on these grounds.

On appeal DCFS argues that because the trial court acknowledged J.R.'s parental rights to Z.R.'s siblings were terminated due to neglect and granted DCFS's motion pursuant to La. Ch.C. art. 672.1,⁸ a judicial finding of reasonable efforts to

⁸ The record does not contain a copy of the motion for a judicial determination that reunification efforts are not required.

reunify at the time of the termination hearing is not necessary. DCFS further argues that the disposition judgment (signed January 14, 2025) and the judgment following the case review and permanency hearing (signed October 10, 2025) in the CINC case related to Z.R. identify that the trial court found DCFS had made reasonable efforts to reunify J.R. and Z.R. DCFS argues that it has provided evidence that previous efforts to rehabilitate J.R. had been made to no avail.

As noted above, for La. Ch.C. art. 1015(3)(k) to apply, DCFS must prove that (1) J.R.'s parental rights to Z.R.'s siblings were terminated due to neglect or abuse; (2) *prior* attempts to rehabilitate J.R. have been unsuccessful; and (3) the court has determined, pursuant to La. Ch.C. art. 672.1, that current attempts to reunite the family are not required. See *State in Interest of G.K.*, 399 So. 3d at 438-39. In this case, DCFS did not introduce any evidence regarding the circumstances that led to the prior termination of J.R.'s parental rights to Z.R.'s siblings. DCFS did not introduce the record of the prior termination case, the case worker testified that she did not become involved with Z.R.'s case until after the judgment terminating J.R.'s parental rights to Z.R.'s siblings, and the case worker provided no testimony regarding services offered to J.R. in the prior termination case. *Cf. State ex rel. L.B. v. G.B.B.*, 2002-1715 (La. 12/4/02), 831 So. 2d 918, 924-25 (finding prior attempts to rehabilitate a mother were unsuccessful considering the previous termination record of the child's sibling, which established a poor prognosis based on the mother's longstanding history of mental illness); *State in Interest of L.J.*, 2023-1357 (La. App. 1 Cir. 12/26/24), 404 So. 3d 956, 964 (finding rehabilitation efforts relating to a prior termination were unsuccessful based upon testimony by the case worker that the parents' rights to the child's siblings were terminated because the parents were not successful with their substance abuse and parenting services); and *State in Interest of G.K.*, 399 So. 3d at 439 (finding prior attempts to rehabilitate the parents were unsuccessful considering the record of the prior case involving the

child’s siblings and evidence in the current case, which was consolidated with the prior case, that due to the parents’ substance abuse issues and periodic incarcerations, they failed to make substantial compliance with their case plans).

Accordingly, based upon our review of the record, we cannot say that the trial court manifestly erred in finding that DCFS failed to establish each of the elements of La. Ch.C. art. 1015(3)(k) and denying the petition for termination pursuant to La. Ch.C. art. 1015(3)(k).

Grounds for Termination Under La. Ch.C. art. 1015(5)

DCFS also sought to terminate J.R.’s parental rights under La. Ch.C. art. 1015(5), which provides the following grounds for termination of parental rights:

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from the parent’s custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the safe return of the child; and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent’s condition or conduct in the near future, considering the child’s age and his need for a safe, stable, and permanent home.

Additionally, La. Ch.C. art. 1036 provides, in pertinent part:

C. In accordance with Article 1015(5), lack of parental compliance with a case plan may be evidenced by one or more of the following:

- (5) The parent’s repeated failure to comply with the required program of treatment and rehabilitation services provided in the case plan.
- (6) The parent’s lack of substantial improvement in redressing the problems preventing reunification.
- (7) The persistence of conditions that led to removal or similar potentially harmful conditions.

D. In accordance with Article 1015(5), lack of any reasonable expectation of significant improvement in the parent’s conduct in the near future may be evidenced by one or more of the following:

- (1) Any physical or mental illness, mental deficiency, substance abuse, or chemical dependency that renders the parent unable or incapable of

exercising parental responsibilities without exposing the child to a substantial risk of serious harm, based upon expert opinion or based upon an established pattern of behavior.

(2) A pattern of repeated incarceration of the parent that has rendered the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time.

(3) Any other condition or conduct that reasonably indicates that the parent is unable or unwilling to provide an adequate permanent home for the child, based upon expert opinion or based upon an established pattern of behavior.

The trial court found that DCFS did not meet its burden of proof under La. Ch.C. art. 1015(5) because it failed to submit evidence of insufficient parental compliance with a case plan or lack of a reasonable expectation of significant improvement in the parent's condition or conduct in the near future. In finding lack of evidence of insufficient parental compliance with a case plan, the trial court reviewed several factors contained in La. Ch.C. art. 1036(C), noting that J.R. completed some of the case plan and had received a housing voucher, but DCFS failed to provide J.R. with a copy of Z.R.'s birth certificate despite her request, thereby creating a barrier to J.R. obtaining housing. See La. Ch.C. art. 1036(C)(5). The trial court further recognized that, as J.R. had been released from prison, she had redressed the problem that prevented reunification, *i.e.*, the lack of a caretaker for Z.R., as set forth in La. Ch.C. art. 1036(C)(6). The trial court noted that DCFS provided no evidence of any harmful condition. See La. Ch.C. art. 1036(C)(7).

With regard to DCFS's failure to prove lack of a reasonable expectation of significant improvement in the parent's condition or conduct in the near future, the trial court considered the factors set forth in La. Ch.C. art. 1036(D). The trial court noted that although J.R. did not agree that she was bipolar or depressed, she took the medicine that was prescribed and testified she was willing to continue to do so. See La. Ch.C. art. 1036(D)(1). The trial court further noted that while J.R. had been incarcerated twice, it did not find a pattern of incarceration. See La. Ch.C. art.

1036(D)(2). Thus, the trial court denied DCFS's petition to terminate J.R.'s parental rights pursuant to La. Ch.C. art. 1015(5).

On appeal, DCFS disputes the factual findings made by the trial court. DCFS argues there is no proof of compliance with a case plan other than the testimony of J.R., and further argues that J.R. has a pending criminal matter that has not been resolved and outstanding mental health recommendations that she has not addressed.

In this case, the trial court made a number of factual findings regarding J.R.'s compliance with her case plan and the expectation of significant improvement in her condition and conduct. As stated previously, such factual findings are subject to a manifest error standard of review. Having reviewed the record in its entirety, we cannot say that the trial court manifestly erred in finding that DCFS failed to prove each of the elements of La. Ch.C. art. 1015(5) and denying the petition for termination pursuant to La. Ch.C. art. 1015(5).

Best Interest of the Child

Finally, the trial court observed that the last court-approved goal was adoption concurrent with reunification, and found that it would not be in Z.R.'s best interest to terminate J.R.'s parental rights without additional efforts by J.R. to reunification. On appeal, DCFS argues that J.R. does not know Z.R., has not demonstrated an ability to meet Z.R.'s needs, and has failed to demonstrate a substantive change in behavior such that she could safely parent Z.R. in the near future.

We pretermitted discussion of this issue based upon our previous findings that the trial court was not manifestly erroneous in concluding that DCFS failed to prove a statutory ground for termination. See La. Ch.C. art. 1037; *State in Interest of A.L.D.*, 2018-1271 (La. 1/30/19), 263 So. 3d 860, 863.

CONCLUSION

Accordingly, for the reasons set forth herein, we affirm the trial court judgment dismissing the Louisiana Department of Children and Family Services'

petition to terminate the parental rights of J.R. to her minor child, Z.R. Costs of this appeal in the amount of \$879.00 are assessed to the Louisiana Department of Children and Family Services.

AFFIRMED.

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

2026 CJ 0215

STATE OF LOUISIANA IN THE INTEREST OF Z.R.


THERIOT, J., dissenting and assigning reasons.

Although the State could have done a better job presenting its evidence, I find the State provided sufficient evidence to prove that prior attempts to rehabilitate J.R. were unsuccessful. I believe that the testimony at the trial, combined with the February 12, 2024 judgment terminating J.R.'s rights to three of her children under La. Ch.C. art. 1015(5), clearly proved that prior attempts to rehabilitate J.R. were unsuccessful. Since termination under La. Ch.C. art. 1015(5) requires a showing that there has been no substantial parental compliance with a case plan and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future. I find it is in the best interest of the Z.R. not to be with the mother.