

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2026 CJ 0473

STATE OF LOUISIANA
IN THE INTEREST OF M.S.

Judgment Rendered: OCT 22 2026

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On Appeal from the
21st Judicial District Court
Parish of Livingston, State of Louisiana
Trial Court No. J-13687, Div. "L"
The Honorable Matthew S. Belser, Judge Presiding

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* * * * *

BEFORE: WOLFE, STROMBERG, and BALFOUR, J.J.

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Stromberg, I concur with reasons

WOLFE, J.

In this child in need of care proceeding, J.S., the father of M.S.¹, appeals a juvenile court case review and permanency judgment, which changed the permanent plan goal from reunification to guardianship concurrent with reunification. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

On August 3, 2024, the Department of Child and Family Services (“DCFS”) received three separate, but similar, reports alleging that a domestic dispute occurred between J.S., and his partner, A.P., in front of their minor child, M.S. Specifically, the reports claimed that J.S., who has a significant history of substance and alcohol abuse, “was drunk or on drugs” all week. Additionally, it was alleged that J.S. was sitting in his vehicle at the apartment complex where he and A.P. lived, blowing the horn for nearly twenty minutes, attempting to have A.P. exit their apartment. When A.P., who is also alleged to have a history of substance abuse, eventually exited the apartment and approached J.S., the reports state he physically struck A.P. on her face, causing her tooth to be knocked out. One report asserted that the altercation lasted between five and ten minutes. All three reports claimed M.S., a nine-year-old boy at the time, was standing outside, crying, and observed the altercation. The third report indicated a neighbor came to help A.P., pulled J.S. to the ground, but that A.P. fled from the apartment complex “and did not grab [M.S.] even when the man had [J.S.] on the ground and told her to take [M.S.] with her[.]” Additionally, the reports alleged that J.S. often “stumbles, throws things, and screams and yells[.]” that the “parents are constantly fighting[.]” and that J.S. was “seen throwing items out of the back door.” As a result, on August 8, 2024, M.S. entered DCFS custody via verbal hold by the

¹ To protect and ensure the minor’s identity and confidentiality, initials are used herein. See Rule 5-2 of Uniform Rules of Louisiana Courts of Appeal.

Honorable Jerry L. Denton of Denham Springs City Court. M.S. was later placed with his maternal grandmother. Eventually, the matter was transferred to the 21st Judicial District Court, Parish of Livingston, on August 21, 2024. Moreover, J.S. was arrested and charged with domestic abuse battery.

A Motion to Modify Disposition was filed on September 3, 2024, which was eventually heard by the juvenile court on October 28, 2024. A.P. appeared at the hearing and stipulated, without admitting, that M.S. was a child in need of care. In an Adjudication/Disposition Judgment, the juvenile court maintained M.S.'s placement, maintained the permanent plan goal of reunification, and set a review hearing for February 11, 2025.

At the review hearing on February 11, 2025, the juvenile court determined that M.S. was to remain in DCFS custody with a permanent plan goal of reunification. At a subsequent review hearing on August 12, 2025, the juvenile court granted a three-month AFSA ("Adoption and Safe Families Act") exception² based on the permanent plan progress and M.S.'s wishes, maintained the permanent plan goal as reunification, and further required J.S. to complete a domestic violence intervention program.

At the time of the November 10, 2025 review hearing, M.S. had been in DSCF custody for fifteen months and was continuing to live with his maternal grandmother in Denham Springs, Louisiana. However, DCFS sought to change the permanent plan goal to guardianship, such that M.S. would eventually reside with an aunt and uncle in Las Vegas, Nevada. DCFS stated that M.S. voiced his preference to be reunited with either J.S. or A.P., or alternatively, to remain with

² The ASFA exception is a reference to the Adoption and Safe Families Act of 1997, pursuant to which states are mandated to establish "permanency plans" for children within the foster care system. The Act provides that such plans must demonstrate, *inter alia*, that the State make reasonable efforts to "preserve and reunify" the family. If such measures fail, the State is mandated to make reasonable efforts to place a child for adoption or with a legal guardian. **State in Interest of I.K.**, 2022-0927 (La. App. 1st Cir. 12/22/22), 358 So.3d 56, 60 n.2, writ denied, 2023-00089 (La. 3/7/23), 357 So.3d 349.

his maternal grandmother, and, as a last option, he “is okay going to Las Vegas.” Bailey Clark, the DCFS caseworker, testified, regarding A.P., that she relapsed during her substance abuse treatment in October, but she otherwise was compliant with her case plan: she completed an anger management domestic violence course, maintained her employment, and is generally stable. Regarding J.S., Ms. Clark testified he was compliant with his substance abuse treatment, paid his parental contributions, maintained his employment, and had no new reported incidents of domestic violence during the previous fifteen months. Additionally, Ms. Clark stated that J.S. was sharing an apartment with his brother and father, but they were moving to Mississippi, and J.S. would be staying in the state of Washington. J.S.’s housing arrangement thereafter was unclear. As for the domestic violence intervention course previously mandated by the juvenile court, J.S. testified he began the course in August, it lasts nine months, and he has completed six of ten classes. Further, J.S. was required to complete thirty-two journal entries, and, at the time of the hearing, he had completed five.

At the conclusion of the hearing, the juvenile court stated:

All right. The [c]ourt approves the case plan with goal change to guardianship. The [c]ourt is going to maintain in State’s custody. The [c]ourt approves the current placement for now. I’m not approving any other placements at this time. I expect to hear more from DCFS in regards to the most appropriate placement and then I’ll make a finding at that point. We’ll set this for – let’s set it in January.

Thereafter, upon objection and request by counsel for A.P. and M.S., the juvenile court changed the permanent plan goal to guardianship concurrent with reunification. The juvenile court then signed a case review and permanency judgment to this effect. It is from this ruling that J.S. now appeals.³

³ Following the juvenile court’s ruling, J.S. timely filed a notice of intent to seek supervisory writs with this court. However, upon a finding that the juvenile court’s case review and permanency judgment was an appealable judgment, this court remanded the writ application for the limited purpose of instructing the juvenile court to grant J.S. an appeal, pursuant to his notice of intent to seek supervisory writs. See Interest of M.S., 2025-1271 (La. App. 1st Cir. 1/8/26), 2026 WL 127046 (unpublished).

ASSIGNMENTS OF ERROR

J.S. sets forth two assignments of error: (1) “[a]s [he] is actively complying with his case plan, the juvenile court erred by changing the case plan goal to guardianship[,]” and (2) “[g]uardianship to an out-of-state relative is inconsistent with M.S.’s expressed wishes and best interests.”⁴

DISCUSSION

Initially, we note that, despite J.S.’s stated assignment of error, the juvenile court did not completely change the permanent plan goal from reunification to guardianship, but rather changed the plan from reunification to guardianship *concurrent* with reunification. Therefore, notwithstanding J.S.’s claims to the contrary, reunification appears to be a viable permanent plan goal between him and M.S. J.S. claims he should be “entitled to an opportunity to work towards reunification.” Yet, based on the record before us, we make clear that at the time the permanent plan goal was issued in this case, such a pathway remained open for J.S. Nevertheless, we will consider whether the juvenile court erred in changing the permanent plan goal from reunification to guardianship concurrent with reunification.

The purpose of guardianship is to provide a permanent placement for children when neither reunification with a parent nor adoption has been found to be in their best interest; to encourage stability and permanence in the lives of children who have been adjudicated to be in need of care and have been removed from the custody of their parent; and to increase the opportunities for the prompt permanent placement of children, especially with relatives, without ongoing supervision by the department. See La. Ch. Code art. 718(A). It is intended to ensure that the

⁴ Based on the record before us, at the time of this appeal, the juvenile court had not rendered a judgment awarding guardianship over M.S. As such, we decline to consider J.S.’s second assignment of error as it is premature.

fundamental needs of children are met, and the constitutional rights of all parties are recognized and enforced. La. Ch. Code art. 718(B).

The court must determine the permanent plan for the child that is most appropriate and in the best interest of the child in accordance with certain priorities of placement, guardianship being below reunification and adoption. La. Ch. Code art. 702(C). In most permanent plan determinations, the court is required to determine whether the department has made reasonable efforts to reunify the parent and child or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan. The child's health, welfare, and safety are the paramount concerns in the court's determination of the permanent plan. La. Ch. Code art. 702(E). More than simply protecting parental rights, our judicial system is required to protect the children's rights to thrive and survive. **State in Interest of M.N.**, 2023-0174 (La. App. 1st Cir. 6/23/23), 370 So.3d 744, 749, writ denied, 2023-00947 (La. 9/6/23), 369 So.3d 1269.

After a child has been adjudicated to be in need of care, the department may submit a case plan along with the case review report to the court and all counsel of record recommending guardianship. La. Ch. Code art. 720(A). According to La. Ch. Code art. 722(A), a mover for guardianship shall have the burden of proving all of the following by clear and convincing evidence:

- (1) The child has been adjudicated to be in need of care.
- (2) Adoption is not in the best interest of the child and the child cannot be safely reunified with the parent within a reasonable time.
- (3) The child has resided for at least six months with the proposed guardian, unless the court waives the residence requirement for good cause.
- (4) The proposed guardian is able to provide a stable and safe home for the child for the duration of minority.

For reunification to remain the permanent plan for the child, the parent must be complying with the case plan and making significant measurable progress toward achieving its goals and correcting the conditions requiring the child to be in care. La. Ch. Code art. 702(C)(1); **State in Interest of M.N.**, 370 So.3d at 749. Mere cooperation by a parent is not the sole focus of the evaluation of a permanency plan. Rather, the courts must assess whether the parent has exhibited significant improvement in the particulars that caused the State to remove the child from the parent's care and custody. **Id.**

To reverse a juvenile court's permanency plan determination, an appellate court must find from the record that the juvenile court's finding is clearly wrong or manifestly erroneous. In a manifest error review, it is important that the appellate court not substitute its own opinion when it is the juvenile court that is in the unique position to see and hear the witnesses as they testify. **Id.**

On appeal, J.S. argues he has demonstrated substantial compliance with his case plan and that the only remaining obstacle was completion of the nine-month domestic violence course, of which he has completed six classes. J.S. further claims the juvenile court erred in potentially awarding guardianship of M.S. to relatives in Las Vegas, NV, with whom M.S. has never permanently resided. DCFS counters that, in the fifteen months since M.S. was entered into DCFS custody, J.S. showed no significant progress as he failed to establish that he rectified the reasons for which M.S. was removed from his custody, *i.e.*, instances of significant domestic violence that occurred between him and A.P. and were witnessed by M.S.

We again note that a judicial determination of guardianship has not been rendered by the juvenile court and reunification between M.S. and J.S. remains a viable permanency plan goal. Further, based on our thorough review of the record before us, we agree with the juvenile court's decision to change the permanent plan

goal to guardianship concurrent with reunification. M.S. has been in DCFS custody for fifteen months and, although J.S. has completed a few domestic violence classes, it is clear from his actions that he still has more to do regarding showing significant measurable progress and correcting the conditions that originally required the removal of M.S. from his custody. Considering the severity of the abuse between him and A.P., we agree with the juvenile court that six domestic abuse classes are not sufficient to demonstrate significant measurable progress. Additionally, J.S. did not begin his domestic violence course until a court order in August 2025, one year following the domestic violence incident between him and A.P. To find that a parent has made significant and measurable progress on a case plan, the record must show a “reasonable expectation of reformation” by the parent. **State ex rel. P.A.P.**, 44,221 (La. App. 2d Cir. 2/4/09), 4 So.3d 182, 185. Our review of the record does not demonstrate this level of reformation by J.S. Moreover, we note J.S.’s housing arrangements are unclear. Considering the child’s health, welfare, and safety, we find no manifest error in the juvenile court’s judgment to change the permanent plan goal to guardianship concurrent with reunification.

CONCLUSION

For the above and foregoing reasons, we affirm the juvenile court’s November 10, 2025 case review and permanency judgment, which changed the permanency plan goal from reunification to guardianship concurrent with reunification. Costs of this appeal are assessed to J.S.

AFFIRMED.

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STROMBERG, J., concurring in part with reasons.

While I agree with the majority's finding that the district court did not err in its judgment of guardianship concurrent with reunification, I believe that this matter may be moot. The judgment appealed in this case was signed on November 10, 2025, and the appeal is being considered ten months later, after two additional case review and permanency judgments have been entered on January 12, 2026, and February 2, 2026. The February 2, 2026 judgment states that a future case review/permanency hearing was set for May 4, 2026.

The district court's subsequent January 12, 2026 and February 2, 2026 judgments supersede the previous judgment of November 10, 2025 that is the subject of this appeal. See State In re L.A., Jr., 2015-1953 (La. App. 1 Cir. 4/15/16), 2016 WL 1535077 *1 (unpublished opinion). Appellate review of the November 10, 2025 permanency plan goal of reunification concurrent with guardianship would serve no useful purpose, nor result in any practical relief or effect; therefore, the case review and permanency judgment being reviewed in this appeal would appear to be moot. See Id. Additionally, this court may be drafting an opinion based on facts that no longer exist which may result in a failure to protect the best interest of the minor child. See State in Interest of A.B., 383 So.3d 933, 942-43 (Holdridge, J., concurring), writ denied, 2024-00221 (La. 3/7/24), 380 So.3d 552 (Crichton, J., concurring; McCallum, J., would grant and assigning reasons).