

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

IN THE INTEREST OF: D.L.P., T.H.,
W.C.H., A.G.H., AND R.S.M.H.

) No. ED109493
)
) Appeal from the Circuit Court of
) Washington County
)
) Honorable Wendy W. Horn
)
)
) Filed: December 7, 2021

Biological Mother (“Appellant”) appeals the judgment of the 24th Judicial Circuit Court terminating her parental rights following a hearing.

Appellant raises four points on appeal. In Point I, Appellant argues the trial court erred and abused its discretion in denying her motion to reopen the evidence following the trial court’s judgment. In Point II, Appellant argues the trial court’s finding grounds existed to terminate her parental rights was against the weight of the evidence. In Point III, Appellant argues the trial court erred in terminating her parental rights because the evidence presented against her only proved she is poor. In Point IV, Appellant argues the trial court misapplied the law by failing to state the clear, cogent, and convincing evidence standard in its judgment terminating her parental rights.

REVERSED AND REMANDED.

DIVISION III HOLDS:

Point II is granted. The trial court’s judgment terminating Appellant’s parental rights was against the weight of the evidence because it was not supported by clear, cogent, convincing evidence grounds to terminate Appellant’s parental rights existed under section 211.447.5(3) or 211.447.5(5). *In re S.Y.B.G.*, 443 S.W.3d 56, 59 (Mo. App. E.D. 2014) (citing *In re G.G.B.*, 394 S.W.3d 457, 472 (Mo. App. E.D. 2013)). Courts may not terminate parental rights under section 211.447.5(3) where the Children’s Division fails in its duty to assist parents. *In re C.F.C.*, 156 S.W.3d 422, 430 (Mo. App. E.D. 2005) (citing *In re B.S.B.*, 76 S.W.3d 318, 333 (Mo. App. W.D. 2002)). Failure to complete a social service plan is not an independent ground for termination, and the remaining evidence against Appellant did not support termination under 211.447.5(5). *In Int. of K.M.A.-B.*, 493 S.W.3d 457, 474-75 (Mo. App. E.D. 2016).

Point IV is granted. The trial court failed to provide the statutory standard in its judgment. In a judgment terminating parental rights, a court must specifically state the “clear, cogent, and convincing” evidence standard in finding at least one ground for termination exists. *In re B.H.*, 348 S.W.3d 770, 773 (Mo. banc 2011). Strict and literal compliance with the statutory

requirements relating to termination of parental rights is necessary. *In re S.L.N.*, 8 S.W.3d 916, 920 (Mo. App. S.D. 2000) (citing *In the Interest of F.M.*, 979 S.W.2d 944, 946 (Mo. App. S.D.1998)). A court commits reversible error where it erroneously states or applies the law. *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976).

Because Points II and IV are dispositive, we decline to address Points I and III.

Opinion by: Philip M. Hess, Presiding Judge
Angela T. Quigless, Judge and Colleen Dolan, Judge concur.

Attorney for Appellant: Julie K.H. McCarver

Attorney for Respondent: Tammy M. Steward

Guardian Ad Litem: Holly Joyce

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.