

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

IN THE INTEREST OF: T.A.L.

JUVENILE OFFICER,

Respondent,

v.

P.L.H. (Natural Mother),

Appellant.

DOCKET NUMBER WD71958

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: September 21, 2010

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

APPELLATE JUDGES

Division Two: Joseph M. Ellis, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

ATTORNEYS

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Guardian *ad litem*.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE INTEREST OF: T.A.L.)
)
JUVENILE OFFICER,)
)
Respondent,)
v.)
)
P.L.H. (Natural Mother),)
)
Appellant.)

WD71958

Cole County

Before Division Two Judges: Joseph M. Ellis, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

This is a termination of parental rights case. The issue is whether there was clear, cogent, and convincing evidence that the conditions of section 211.447¹ were met so as to trigger the trial court's authority to terminate the appellant's parental rights. We hold that there was not.

REVERSED AND REMANDED .

Division Two holds:

On November 24, 2009, the court entered its judgment, terminating the parental rights of P.L.H. ("Mother") with respect to T.A.L. ("Son").

In its judgment, the court found that Mother and the Children's Division had entered into certain written service agreements and that the plans had not aided Mother in adjusting her circumstances or conduct to provide a proper home for the child in that:

¹ Statutory references are to RSMo 2000, as updated through the 2009 cumulative supplement.

(1) The Mother has failed to address her psychiatric issues since [Son] came into Children's Division custody in August 2007;

(2) The Mother has not successfully maintained sobriety and refuses to attend AA meetings or other treatment to demonstrate that she no longer abuses alcohol or to aid her in resolving her addiction;

(3) The Mother does not regularly attend team meetings at the Children's Division;

(4) The Mother has attended visitation with [Son], but her visitations are not beneficial to [Son's] well-being in that the Mother does not focus on [Son's] needs during the visitation.

For appeals that turn on evidentiary determinations made pursuant to section 211.447.5(3), we must determine whether the trial court's finding that there was clear, cogent, and convincing evidence proving one of the statutory bases is supported by substantial evidence and whether it is against the weight of the evidence. *In the Interest of C.K.*, 221 S.W.3d 467, 471 (Mo. App. W.D. 2007).

In her sole point on appeal, Mother argues that the trial court erred in finding that there was clear, cogent, and convincing evidence that would establish a statutory basis for terminating her parental rights. We agree. There was no clear, cogent, and convincing evidence to support the trial court's conclusion that elements of section 211.447.5(3) were met. All of the court's specific findings with regard to the relevant factors were either (1) favorable to Mother; (2) unsupported by substantial evidence and/or against the weight of the evidence; or (3) the result of a misapplication of the law. Lacking sufficient evidence of *any* of the section 211.447.5(3) factors, the trial court had no authority to terminate Mother's parental rights. *Juvenile Officer v. D.M.M. (In the Interest of J.M.)*, 815 S.W.2d 97, 102 (Mo. App. W.D. 1991). Accordingly, we reverse.

Opinion by: Karen King Mitchell, Judge

September 21, 2010

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.