

Fifth Circuit Court of Appeal
State of Louisiana

No. 26-C-492

STATE IN THE INTEREST OF R.H.

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE JEFFERSON PARISH JUVENILE
COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 26-TP-13, DIVISION "A"
HONORABLE JENNIFER G. WOMBLE, JUDGE PRESIDING

October 26, 2026

JUDE G. GRAVOIS
JUDGE

Panel composed of Judges Jude G. Gravois,
Stephen J. Windhorst, and John J. Molaison, Jr.

WRIT DENIED

JGG
SJW
JJM



COUNSEL FOR PLAINTIFF/RELATOR,
STATE OF LOUISIANA, DEPARTMENT OF CHILDREN AND
FAMILY SERVICES
Katherine M. Dowling

COUNSEL FOR DEFENDANT/RESPONDENT,
KENDRA GALLO
Elizabeth G. Lincoln

GRAVOIS, J.

In this termination of parental rights proceeding, relator, the State of Louisiana, Department of Children and Family Services (“DCFS”), seeks this Court’s supervisory review of a ruling of the Juvenile Court for the Parish of Jefferson, No. 2026-TP-13, dated September 29, 2026. Therein, the court held that DCFS’s evidence of a judgment in a previous termination of parental rights proceeding relative to R.H.’s siblings, rendered in Washington Parish, was insufficient to prove by clear and convincing evidence the second required prong of La. Ch.C. art. 1015(3)(k) in order to terminate parental rights to R.H. in this case.

Pertinent to this matter, La. Ch.C. art. 1015(3)(k) provides:

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.

(Emphasis added.)

The Juvenile Court judge framed the issue as a question of “what is necessary to meet the requirement of the second prong of Louisiana Children’s Code Article 1015(3)(k).” Specifically, the court ruled that the State’s evidence of the previous termination of parental rights to the siblings of R.H., a case which occurred in Washington Parish, by itself, was not sufficient to prove the second prong of La. Ch.C. art. 1015(3)(k) in this case by clear and convincing evidence.

Termination of parental rights is a severe and permanent action which must be scrutinized very carefully. *State ex rel. T.M.H.*, 99-433

(La. App. 5 Cir. 11/30/99), 748 So.2d 1216, 1219. The State must prove a case for termination of the natural parents' rights by clear and convincing evidence. *Id.*, La. Ch.C. art. 1035. Under the "clear and convincing" standard, the existence of the disputed fact must be highly probable or much more probable than its nonexistence. *State in Int. of M.W.*, 23-4 (La. App. 5 Cir. 5/23/23), 366 So.3d 769, 774, citing *State in Interest of H.M.R.*, 22-176 (La. App. 5 Cir. 1/11/23), 356 So.3d 1179, 1183. Whether the State has carried its clear and convincing burden on a ground for termination is a question of fact, and the juvenile court's factual determinations will not be set aside absent manifest error. *State in Interest of E.O.*, 18-803 (La. App. 3 Cir. 2/20/19), 265 So.3d 76, 80; *State ex rel. K.G.*, 02-2886 (La. 3/18/03), 841 So.2d 759. A trial court's rulings on the admissibility of evidence, by contrast, are reviewed for abuse of discretion. *E.O.*, 265 So.3d at 83.

DCFS argues herein that the previous termination judgment from Washington Parish, which was based in part on the grounds in La. Ch.C. art. 1015(5), conclusively proves the second necessary prong of La. Ch.C. art. 1015(3)(k) by clear and convincing evidence that "prior attempts to rehabilitate the parent have been unsuccessful," and that principles of *res judicata* and limited appellate review barred the juvenile court from requiring additional evidence.

In the contested ruling, the juvenile judge stated:

Based on the circumstances of this particular case wherein the prior termination of parental rights case (along with the underlining Child in Need of Care case relative to that termination) was not heard by this Court but was in fact heard and granted by another court (Washington Parish), the termination judgment alone is not sufficient on its face to prove the second prong of "prior attempts to rehabilitate have been unsuccessful" by clear and convincing evidence. The legislature wrote this as a mandatory prong separate from the granting of the termination of parental rights which is the first prong. The Court does not wish to relitigate the facts of the other case, nor is it saying the of [sic] Washington Parish judgment of termination was made in error. However, the Court cannot assume facts of a case which was never in front of her.

Therefore, the Department of Children and Family Services must provide evidence to meet its burden of proof of all three prongs of Louisiana Children’s Code article 1015(3)(k), and the court needs to make a finding of fact as to whether the second prong of Louisiana Children’s Code Article 1015(3)(k) was met.

Article 1015(3)(k) requires proof of three prongs: (1) the parent’s rights to one or more of the child’s siblings were terminated due to neglect or abuse; (2) prior attempts to rehabilitate the parent have been unsuccessful; and (3) the court has determined, pursuant to Article 672.1, that current attempts to reunite the family are not required. *State in Interest of G.K.*, 24-0163 (La. App. 4 Cir. 6/26/24), 399 So.3d 433, 438–39. The first and third prongs are satisfied and uncontested here: the Washington Parish judgment terminating the parents’ rights to R.H.’s siblings is final, and this Court granted DCFS’s motion under Article 672.1, documented by written findings of fact as that article requires. *See* La. Ch.C. art. 672.1(D). Only the second prong—whether prior attempts to rehabilitate the parent have been unsuccessful—is in dispute.

The second prong is a distinct element that DCFS must prove by clear and convincing evidence; the prior sibling-termination judgment, standing alone, does not establish it. *State ex rel. E.R.*, 11-0065 (La. App. 3 Cir. 5/4/11), 63 So.3d 1152, 1163–64 (proof that the parent’s rights to another child were previously terminated “in and of itself, is insufficient to prove that termination is proper under Article 1015(3)(k)”); *State v. F.Y.*, 05-920 (La. App. 3 Cir. 3/1/06), 924 So.2d 1164, 1173. The prong is proven through the record of the prior proceeding or testimony describing the services offered and the parent’s failure to rehabilitate. *See G.K.*, 399 So.3d at 439 (juvenile court took judicial notice of the consolidated prior-case record); *State in Interest of L.J.*, 23-1357 (La. App. 1 Cir. 12/26/24), 404 So.3d 956, 964 (caseworker testimony that prior rehabilitative services were unsuccessful).

DCFS’s contention that a judgment under Article 1015(5) necessarily proves the second prong is not persuasive. Termination

under Article 1015(5) does carry a reasonable-efforts predicate. *See State ex rel. A.T.*, 06-0501 (La. 7/6/06), 936 So.2d 79, 84–85. But that does not make the prior judgment self-proving under Article 1015(3)(k). The two grounds are distinct: Article 1015(5) addresses the parent’s non-compliance with a case plan, while the second prong of Article 1015(3)(k) requires proof that efforts to rehabilitate the parent were unsuccessful. *F.Y.*, 924 So.2d at 1173. The Washington Parish judgment, moreover, rested on both Article 1015(4) and Article 1015(5), and Article 1015(4) carries no reasonable-efforts predicate, so the bare judgment does not establish that the prior termination turned on a rehabilitation-efforts finding.

Nor does *res judicata* relieve DCFS of its burden on the second prong. Issue preclusion under La. R.S. 13:4231 applies only between the same parties and is “strictly limited to narrowly defined circumstances.” *Foley v. Entergy La., Inc.*, 06-0983 (La. 11/29/06), 946 So.2d 144, 157 n.4. R.H. was not a party to the Washington Parish proceeding concerning her siblings, and Louisiana courts have declined to give a prior child-welfare judgment preclusive effect in a later termination proceeding. *G.K.*, 399 So.3d at 440 (*res judicata* “does not apply in this instance involving the separate issue of the termination of parental rights”); *State in Interest of P.D.J.*, 51,027 (La. App. 2 Cir. 8/10/16), 200 So.3d 916. Treating the prior judgment as conclusive would also render the second prong of Article 1015(3)(k) surplusage.

Here, DCFS offered only the certified Washington Parish judgment; it did not introduce the record of the prior proceeding or testimony describing the services offered to the parent and her failure to rehabilitate. On that showing, the juvenile court did not err in finding the second prong unproven. The First Circuit reached the same conclusion on materially identical facts in *State in Interest of Z.R.*, 26-0215 (La. App. 1 Cir. 9/24/26), holding that a prior sibling-termination judgment “opened the door” but did not itself prove unsuccessful rehabilitation. *Z.R.* is not yet final, and we cite it only as persuasive authority.

In this case, the juvenile court carefully limited its ruling to the particular facts and circumstances of this case. This holding is not a position that a court cannot or will never accept a final termination judgment (based on Article 1015(5)) as proof by clear and convincing evidence of the second prong of Article 1015(3)(k).

Termination of parental rights demands that the State prove its case by clear and convincing evidence. On the showing made in this case, we cannot say that the juvenile court was manifestly erroneous or clearly wrong in ruling that the Washington Parish termination judgment, in and of itself, was insufficient to prove the second prong of Article 1015(3)(k) by clear and convincing evidence. Accordingly, the writ application is denied.

WRIT DENIED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED
IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY
OCTOBER 26, 2026 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES
NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

26-C-492

E-NOTIFIED

JUVENILE COURT (CLERK)
HONORABLE JENNIFER G. WOMBLE (DISTRICT JUDGE)
KATHERINE M. DOWLING (RELATOR) ELIZABETH G. LINCOLN (RESPONDENT)
MARCELINE BLEICH (RESPONDENT)

WILLIAM B. GORDON, III
(RESPONDENT)

MAILED

NO ATTORNEYS WERE MAILED