

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FILED
August 20, 2019
Carla Bender
4th District Appellate
Court, IL

2019 IL App (4th) 190266-U
NOS. 4-19-0266 & 4-19-0267 cons.

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

<i>In re</i> S.T., a Minor)	Appeal from the
)	Circuit Court of
(The People of the State of Illinois,)	Vermilion County
Petitioner-Appellee,)	No. 16JA36
v. (No. 4-19-0266))	
George T.)	
Respondent-Appellant).)	
_____)	
<i>In re</i> S.T., a Minor)	
)	
(The People of the State of Illinois,)	
Petitioner-Appellee,)	
v. (No. 4-19-0267))	
Tyresha C.)	Honorable
Respondent-Appellant).)	Thomas M. O’Shaughnessy,
)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Justices Steigmann and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* If, when orally announcing its decision, the circuit court directs the prevailing party to draft a final order that memorializes the oral decision, a notice of appeal filed before the entry of the anticipated written order is premature and does not confer subject-matter jurisdiction on the appellate court.

¶ 2 In these two consolidated appeals, respondents, George T. and Tyresha C. (to whom we will refer individually as “the father” and “the mother” respectively), appeal the termination of their parental rights to their daughter, S.T., born May 1, 2015. We dismiss the appeals for lack of subject-matter jurisdiction.

¶ 3

I. BACKGROUND

¶ 4 In June and August 2018, the circuit court heard evidence on the issue of whether respondents met any of the statutory definitions of an “unfit person” (750 ILCS 50/1(D) (West 2016)) that the State cited in its petition to terminate their parental rights.

¶ 5 On January 31, 2019, in a painstaking and exemplary 28-page decision, the circuit court found the mother to be an “unfit person” within the meaning of sections 1(D)(b), (D)(m)(ii), and (D)(p) of the Adoption Act (750 ILCS 50/1(D)(b), (D)(m)(ii), (D)(p) (West 2016)) and the father to be an “unfit person” within the meaning of sections 1(D)(b), (D)(m)(i), and (D)(m)(ii) of the Adoption Act (*id.* §§ 1(D)(b), (D)(m)(i), (D)(m)(ii)).

¶ 6 On April 26, 2019, the circuit court held a hearing on the further issue of whether it would be in S.T.’s best interests to terminate respondents’ parental rights. At the conclusion of the hearing, after the presentation of evidence, the court announced its finding from the bench: The State had proven, by a preponderance of the evidence, that the termination of parental rights would be in the best interests of S.T. and the public. Accordingly, the court ordered that S.T. was to remain a ward of the court, and the court terminated respondents’ parental rights to her and empowered the guardianship coordinator of the Illinois Department of Children and Family Services to consent to an adoption of S.T.

¶ 7 The circuit court then said:

“[Respondents], you have a right to appeal the [c]ourt’s decision. The State is directed to prepare and tender to the [c]ourt a written order in compliance with these findings. Rather, in conformity with these findings. In order to appeal this order, you must[,] within 30 days from the entry of the written order that [the

State] will be tendering to me[,] file with the clerk of the court[,] or request that I direct the clerk prepare and file for you[,] a written notice of appeal.”

¶ 8 The attorneys for both respondents requested that the clerk of the court file notices of appeal. Accordingly, the circuit court ordered: “The clerk is directed to immediately upon the filing of the written order to prepare and file on behalf of each parent a notice of appeal.”

¶ 9 On April 28, 2019, the circuit clerk filed a notice of appeal on behalf of the father. According to the notice, the appeal was from the “judgment or order” dated April 26, 2019, and the “nature of order appealed from” was the “Best Interest Hearing.”

¶ 10 Also on April 28, 2019, the circuit clerk filed a notice of appeal on behalf of the mother. This notice likewise specified the “judgment or order” of April 26, 2019, as the one being appealed, and the “nature of order appealed from” was, again, the “Best Interest Hearing.”

¶ 11 On May 2, 2019, the circuit court entered an order titled “Dispositional Order After Finding of Parental Unfitness,” which terminated the parental rights of the mother and the father. The order stated at the end, in bold font and all capital letters:

“THIS IS NOW A FINAL ORDER. IF YOU DO NOT AGREE WITH THIS ORDER[,] YOU MAY REQUEST THE CLERK TO FILE A NOTICE OF APPEAL WITH THE CLERK OF THE COURT. IF YOU ARE INDIGENT, A TRANSCRIPTION OF THE PROCEEDINGS SHALL BE FURNISHED AT NO COST TO YOU. YOUR RIGHT TO APPEAL WILL BE PRESERVED ONLY IF A NOTICE OF APPEAL IS FILED IN THE TRIAL COURT WITHIN THIRTY (30) DAYS FROM THE ENTRY OF THIS ORDER. IF YOU ARE

INDIGENT[,] AN ATTORNEY WILL BE APPOINTED TO REPRESENT YOU
AT NO COST TO YOU.”

¶ 12 No further notice of appeal was filed.

¶ 13 II. ANALYSIS

¶ 14 Illinois Supreme Court Rule 272 provides, in part, as follows:

“If at the time of announcing final judgment[,] the judge requires the submission of a form of written judgment to be signed by the judge or if a circuit court rule requires the prevailing party to submit a draft order, the clerk shall make a notation to that effect[,] and the judgment becomes final only when the signed judgment is filed.” Ill. S. Ct. R. 272 (eff. Jan. 1, 2018).

Thus, if, when orally announcing a decision in favor of a party, the circuit court directs the party to draft a corresponding order, the oral decision is “not final, binding or appealable” (*In re K.S.*, 250 Ill. App. 3d 862, 863 (1993)), and “the filing of a notice of appeal before the entry of the signed written order does not confer jurisdiction on an appellate court” (*Northern Illinois Gas Co. v. Martam Construction Co.*, 240 Ill. App. 3d 988, 991 (1993)).

¶ 15 On April 26, 2019, when orally announcing its decision that respondents’ parental rights would be terminated, the circuit court “directed [the State] to prepare and tender to the [c]ourt a written order in compliance with [the court’s] findings.” Although notices of appeal were filed on April 28, 2019, the final order the court had directed the State to prepare was not entered until May 2, 2019. Thus, the notices of appeal were premature and did not confer jurisdiction on the appellate court. See *In re B.D.*, 212 Ill. App. 3d 251, 254 (1991).

¶ 16 III. CONCLUSION

¶ 17 For the foregoing reasons, we dismiss the consolidated appeals for lack of subject-matter jurisdiction.

¶ 18 Appeals dismissed.