NOT FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2018 CJ 0050

IN RE: R.B. JR. AND C.H.B.[1]
APPLYING FOR INTRAFAMILY ADOPTION

DATE OF JUDGMENT: AUG 10 2018

ON APPEAL FROM THE JUVENILE COURT OF EAST BATON ROUGE
NUMBER 10659, DIVISION A, PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

HONORABLE ADAM J. HANEY, JUDGE

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Harry Landry, III Baton Rouge, Louisiana	Counsel for Appellees A.D.B. Jr., A.D.B. and A.D.B.
A.D.B., Sr. Angola, Louisiana	Defendant-Appellant In Proper Person
Kathleen M. Wilson Baton Rouge, Louisiana	Counsel for Intervenor B.B.

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BEFORE: WHIPPLE, C.J., McDONALD, AND CHUTZ, JJ.

Disposition: RULE TO SHOW CAUSE RECALLED AND APPEAL MAINTAINED; JUDGMENT AFFIRMED.

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[1] In order to protect the privacy of the minor children involved, the initials of the children and their family members will be used throughout this opinion. See Uniform Rules – Courts of Appeal, Rules 5-1(a) and 5-2.

CHUTZ, J.

A.D.B. Sr. appeals a juvenile court judgment finding his consent was not required for an intrafamily adoption of his three minor children, dismissing his opposition thereto, and freeing the children for adoption. The judgment also denied the request of A.D.B. Sr.'s mother for visitation with the children. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

Three children were born of the marriage between A.D.B. Sr. and his wife, E.M.B. All of the children have the initials A.D.B. and were born on October 13, 2000, January 25, 2004, and September 23, 2005, respectively. In 2006, A.D.B. Sr. murdered E.M.B. and four other individuals. He was subsequently convicted of five counts of first-degree murder, as well as the attempted first-degree murder of his mother-in-law, C.H.B. On September 11, 2008, A.D.B. Sr. was sentenced to death on each of the five counts of first-degree murder and to fifty years at hard labor for the attempted first-degree murder. The Louisiana Supreme Court affirmed A.D.B. Sr.'s convictions and sentences and denied his application for post-conviction relief. See ***State v. Bell***, 09-0199 (La. 11/30/10), 53 So.3d 437, 462, cert. denied, 564 U.S. 1025, 131 S.Ct. 3035, 180 L.Ed.2d 856 (2011); ***State v. Bell***, 16-0511 (La. 4/24/17), 217 So.3d 330, 339, cert. denied, ____ U.S. ____, 138 S.Ct. 318, 199 L.Ed.2d 209 (2017).

Since the 2006 incident resulting in their mother's death, the minor children have been in the physical custody of their maternal grandparents, R.B. Jr. and C.H.B. (collectively referred to as "the MGP"), who are married and living together in Baton Rouge, Louisiana. On February 27, 2007, a consent judgment was signed through which A.D.B. Sr. and C.H.B. agreed that joint custody of the minor children would be granted to C.H.B. and to A.D.B. Sr.'s mother, B.B, the children's paternal

grandmother. The judgment was signed on behalf of A.D.B. Sr. by his attorney. The consent judgment designated C.H.B. as the custodial guardian of the children, while B.B. was granted reasonable visitation rights. The children's two grandmothers were ordered to share and exchange information about the children, including their school and sporting activities. The consent judgment further provided that the children were to have no contact or visitation with A.D.B. Sr. during his incarceration or until the children's counselor deemed such contact and/or visitation would not be detrimental to their wellbeing. The consent judgment reserved A.D.B. Sr.'s right to seek modification of the agreement at the conclusion of his criminal trial, but he never requested modification of the judgment.[2]

B.B. had visitation with the children approximately every other weekend until a stipulated judgment was rendered on January 29, 2008. The stipulated judgment authorized the MGP, together with the minor children, to temporarily relocate their residence out of state due to alleged threats made against C.H.B.'s life prior to A.D.B. Sr.'s trial. In view of the relocation, the children's continued visitation with B.B. was not feasible and was terminated by the stipulated judgment. B.B. was not advised of where the MGP and the children relocated.

When the MGP ultimately returned to Baton Rouge with the children, they did not notify B.B. of their return nor did they notify her of their new address when they moved from the home they had lived in for over thirty years to a new home within Baton Rouge. Although B.B. became aware of the MGP's return to Baton Rouge at some point, she never petitioned the court to resume visitation with the children. She testified that she was ill for an extended period of time, after which she lacked the financial resources to do so.

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[2] The record contains no evidence of any contact or attempted contact by A.D.B. Sr. with the three minor children since the date he committed the offenses for which he is incarcerated.

On June 16, 2016, the MGP filed a petition for intrafamily adoption seeking to adopt their three minor grandchildren. A.D.B. Sr. opposed the adoption. In response, the MGP filed a supplemental petition asserting A.D.B. Sr.'s consent was not required under La. Ch.C. art. 1245 due to his failure to support, contact, or attempt to contact his children for at least six months without "just cause." Additionally, B.B. filed an intervention in the adoption proceeding seeking visitation rights with the children, including post-adoption visitation in the event the adoption was approved.

On December 2, 2016, the juvenile court held a hearing on A.D.B. Sr.'s opposition and B.B.'s intervention. Because testimony was not completed on that date, the hearing was continued to a second date. At the conclusion of the second hearing on May 8, 2017, the juvenile court concluded adoption was in the best interests of the three minor children and that A.D.B. Sr.'s consent was unnecessary since he had failed to visit, communicate, or attempt to communicate with the children for at least six months without "just cause." The court also concluded that visitation with B.B. would not be in the children's best interests.

In accordance with its oral ruling, the juvenile court signed a written judgment on May 19, 2017, dismissing A.D.B. Sr.'s opposition to the adoption and denying B.B.'s request for visitation. On May 24, 2017, the juvenile court signed a second judgment, which was captioned as an amended judgment. The only difference between the two judgments is that the May 19 judgment refers only to the May 8, 2017 hearing date, while the amended judgment refers to both the December 2, 2016 and the May 8, 2017 hearing dates. Otherwise, the two judgments are identical.

A.D.B. Sr. appealed, raising four assignments of error. On January 22, 2018, this court *ex proprio motu* issued a rule to show cause whether or not the appeal was properly before us since it was unclear from the motion for appeal which of the juvenile court's two judgments A.D.B. Sr. intended to appeal.

RULE TO SHOW CAUSE

Upon examination of the record, it appears A.D.B. Sr.'s failure to specify the judgment he was appealing is due to the fact that his *pro se* motion for appeal was filed on May 15, 2017, which was after judgment was orally rendered by the juvenile court at the May 8 hearing, but before the signing of either of the two written judgments. Thus, the motion for appeal was premature since it was filed before a written judgment was signed. La. C.C.P. art. 1911(B). However, any defect arising from a premature motion for appeal is cured once a final judgment has been signed. ***Chauvin v. Chauvin***, 10-1055 (La. App. 1st Cir. 10/29/10), 49 So.3d 565, 568 n.1.

In this case, the prematurity of A.D.B. Sr.'s motion for appeal was cured when a written judgment was signed on May 19. Thereafter, the trial court signed a second judgment on May 24 purporting to amend the May 19 judgment. Under La. C.C.P. art. 1951, a final judgment may be amended at any time to "alter the phraseology of the judgment, but not the substance." In this case, the listing of a second hearing date in the May 24 amended judgment, which was the only difference between the two written judgments, did not alter the court's rulings on A.D.B. Sr.'s opposition to the adoption or B.B.'s request for visitation rights. Since the change was one of phraseology and not substance, the amended judgment was authorized by Article 1951. ***In re Succession of Cannata***, 14-1546 (La. App. 1st Cir. 7/10/15), 180 So.3d 355, 371, writ denied, 15-1686 (La. 10/30/15), 180 So.3d 303. Under the circumstances, the amended judgment superseded the original judgment and became the final judgment of the juvenile court. See ***Sanderford v. Mason***, 12-1881 (La. App. 1st Cir. 11/1/13), 135 So.3d 745, 751.

Despite the failure of A.D.B. Sr.'s motion for appeal to specify the date of the judgment he intended to appeal, it is clear he intended to appeal the final judgment dismissing his opposition and freeing his three minor children for adoption. Immediately following the juvenile court's oral ruling at the May 8 hearing, A.D.B.

Sr. notified the court of his intent to appeal. Moreover, the assignment of errors raised and arguments made on appeal make it clear he intended to appeal those rulings. Accordingly, we find the merits of the amended judgment signed by the juvenile court on May 24, 2017, are properly before us, particularly since appeals are favored and will be dismissed only when the grounds are free from doubt. See ***Byrd v. Pulmonary Care Specialists, Inc.***, 16-0485 (La. App. 1st Cir. 12/22/16), 209 So.3d 192, 195.

ASSIGNMENT OF ERROR NUMBER ONE

It is undisputed that A.D.B. Sr. failed to visit, communicate or attempt to communicate with his children for a period of at least six months. However, A.D.B. Sr. argues that the juvenile court was manifestly erroneous in finding that the MGP proved by clear and convincing evidence that his failure to communicate or attempt to communicate with the children was *without just cause*. Both at trial and in his original appellate brief, A.D.B. Sr. asserted "just cause" existed for his failure to communicate or attempt to communicate due to the February 2007 consent judgment preventing him from having any contact with the children. He additionally argues that the MGP's failure to abide by the consent judgment, "including their relocation of the children into hiding and thwarting behaviors," were factors beyond his control that constituted "just cause" for his failure to communicate or attempt to communicate with his children since he had no means of locating them.[3] Finally, in a reply brief, A.D.B. Sr. argues that La. R.S. 46:1846 constituted "just cause" for his

[3] In arguing that the MGP's behavior thwarted him from communicating or attempting to communicate with his children, A.D.B. Sr. ignores the fact that he agreed in the February 2007 consent judgment to have no contact with the children while he was incarcerated or until the children's counselor determined that such contact would not be detrimental to the children. Since A.D.B. Sr. remained incarcerated and never attempted to request a determination from the counselor as to whether contact with the children would be detrimental to them, it was immaterial whether A.D.B. Sr. knew the children's location. Under those circumstances, the consent judgment prohibited him from having any contact with the children. Further, while there was 7evidence that members of A.D.B. Sr.'s family had some contact with and/or attempted to have contact with the minor children several times, the last time being in 2012, that fact has no bearing on whether A.D.B. Sr. communicated or attempted to communicate with the children himself.

failure to communicate or attempt to communicate with his children. This statute prohibits violent offenders from communicating with the victim of their crime or the victim's immediate family except under extremely limited circumstances.

After a thorough review, we find no merit in any of A.D.B.'s contentions for the following reasons.

Generally, a parent's consent is required for an intrafamily adoption. La. Ch.C. art. 1193. However, La. Ch.C. art. 1245 provides that a parent's consent is not necessary if the petitioner proves by clear and convincing evidence[4] that the parent has forfeited his right to consent as follows:

> A. The consent of the parent as required by Article 1193 may be dispensed with upon proof by clear and convincing evidence of the required elements of either Paragraph B or C of this Article at the hearing on the opposition and petition.
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> B. When a petitioner authorized by Article 1243[5] has been granted custody of the child by a court of competent jurisdiction and any one of the following conditions exists:
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> ***
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> **(2) The parent has refused or failed to visit, communicate, or attempt to communicate with the child without just cause for a period of at least six months.**

(Emphasis added.)

The party petitioning the court for adoption has the burden of proving a parent's consent is not required under the law. To constitute "just cause," a parent's failure to support, visit, or communicate with his children must be due to factors beyond his control. ***In re B.L.M.***, 13-0448 (La. App. 1st Cir. 11/1/13), 136 So.3d 5, 9. The determination of whether "just cause" exists is a factual issue subject to the manifest error standard of review. See ***In re R.P.D.***, 14-1539, p. 4 (La. App. 1st Cir.

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[4] To prove a matter by clear and convincing evidence means to demonstrate that the existence of a disputed fact is highly probable, that is, much more probable than its nonexistence. ***In re Succession of Fisher***, 06-2493 (La. App. 1st Cir. 9/19/07), 970 So.2d 1048, 1054.

[5] Louisiana Children's Code article 1243 delineates a list of those eligible to petition for an intrafamily adoption, which includes a child's grandparents.

4/22/15) (unpublished). Therefore, to reverse a juvenile court's factual finding, an appellate court must find from the record that no reasonable factual basis exists for the court's findings and the record establishes they are clearly wrong (manifestly erroneous). ***State ex rel. A.T.***, 06-0501 (La. 7/6/06), 936 So.2d 79, 82-83.

We note that a parent's incarceration alone is not "just cause" for the parent's failure to maintain contact with his children, particularly since it results from one's own actions. ***In re R.P.D.***, 14-1539 at p. 3; see also ***State in Interest of O.L.R.***, 13-616 (La. App. 3d Cir. 11/6/13), 125 So.3d 569, 573; ***State ex rel. JT v. J.M.***, 46,090 (La. App. 2d Cir. 12/12/10), 56 So.3d 1009, 1014. Each case much be decided on its own facts. ***In re R.P.D.***, 14-1539 at p. 3. Moreover, the fact that a consent judgment exists that prohibits a parent from visiting or contacting his children does not necessarily constitute "just cause" under Article 1245 when the parent voluntarily consented to the judgment relinquishing his rights to visit or communicate with the children and means existed for him to at least attempt to communicate with the children without violating the consent judgment. See ***In re B.L.M.***, 136 So.3d at 10 (a father's claim that "just cause" existed for his failure to attempt to visit or to communicate with his children due to a stipulated judgment prohibiting him from visiting or contacting the children was rejected when means existed for him to attempt to visit or to communicate with the children without violating the stipulated judgment).

In the instant case, the juvenile court concluded there was no "just cause" for A.D.B. Sr.'s failure to attempt to visit or communicate with his children for a period of at least six months. The juvenile court explained its rationale in oral reasons for judgment, as follows:

> Essentially there's been no dispute that [A.D.B. Sr.] has failed to visit, communicate, or attempt to communicate [with his children] for a period of six months or longer. The only question is [was] it with or without just cause. So, in order to do so I think we need to visit and look at the testimony and the evidence that I heard. Number one, I'm

> going to note that [A.D.B. Sr.] is a named party on the consent judgment here. And that – I'm going to note that Baron Robinson signed this consent judgment as the attorney for [A.D.B. Sr.]. So he was there. He agreed to all of this. So I'm going to note that he agreed that he shall not have any contact or visitation. The children shall not have any contact or visitation with the defendant [A.D.B. Sr.] at any time during his incarceration or until such time as the children's counselor deems that such contact and/or visitation will no longer be detrimental to the [children's] wellbeing. I'm also going to note that in the first ... paragraph of this [A.D.B. Sr.] reserved his right to seek a modification of this agreement at the conclusion of his criminal trial So, I'm left with these two things. Number one, [A.D.B. Sr.] voluntarily gave up his right to contact his children in this consent judgment. Now in it, he reserved the right to ask that it be changed. ... And the evidence is clear that he did not. He took no actions. [A.D.B. Sr.] himself took zero actions to attempt to contact his children, to do the things that he needed to do to be able to contact his children. So when – The question becomes is when there is an avenue available to a party, right – to seek this modification or to be able to contact and that party voluntarily decides not to take that avenue. ... So there's no question that [A.D.B. Sr.] had the ability, if he wanted to, to request the Family Court to change this and modify this agreement. He, for whatever reason, chose not to do so. **So I certainly don't think that I can say that ... there's just cause there.** I'm also going to note that the reason he's in the predicament he's in with his children here is his own acts. Right. It's his own fault that all this happened.

(Emphasis added.)

We find no error in the juvenile court's conclusion regarding the lack of "just cause." In the consent judgment between A.D.B. Sr. and C.H.B, A.D.B. Sr. voluntarily agreed not to have contact with his children while he was incarcerated *or* until the children's counselor deemed it would not be detrimental to their wellbeing to do so. The consent judgment was executed on February 27, 2007. Louisiana Revised Statutes 46:1846[6], which A.D.B. Sr. cites as "just cause" for his

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[6] When originally enacted, La. R.S. 46:1846, which has subsequently been amended twice, provided:

> A. A person who has been charged by bill of information or indictment with any crime of violence as defined in R.S. 14:2, or any immediate family member of such person, **shall be prohibited from communicating, either by electronic communication, in writing, or orally, with a victim of the offense, or any of his immediate family members for which the person charged has been convicted** or for which disposition of the case is pending.
> B. The provisions of Subsection A of this Section shall apply to communication between the offender or his immediate family member and the victim, or any of his immediate family members, unless Paragraph (1) of this Subsection is satisfied and either Paragraph (2) or (3) of this Subsection is satisfied.

failure to make any attempt to communicate with his children, did not become effective until August 15, 2008. Thus, we need not reach the issue of whether La. R.S. 46:1846 alone gave A.D.B. Sr. "just cause" for failing to communicate or attempting to communicate with his children, because by the time this statute became effective in August 2008, a period of nearly eighteen months had passed since the consent judgment was executed. During that period, A.D.B. Sr. made no attempt to contact or communicate with his children despite the fact that no impediment existed preventing him from making such an attempt.

Contrary to A.D.B.'s contentions, the February 2007 consent judgment did not constitute an absolute prohibition against A.D.B. Sr. attempting to communicate with his children. The judgment provided that the children were to have no contact or visitation with A.D.B. Sr. while he was incarcerated *or* until the children's counselor deemed that contact with A.D.B. Sr. would not be detrimental to the children. A.D.B. Sr. could have attempted to communicate with his children by requesting, either by motion to the juvenile court or inquiry to counsel for the MGP, a determination from the children's counselor as to whether it would be detrimental to the children for him to have contact with them. Regardless of the counselor's determination, such a request would at least have constituted an attempt by A.D.B. Sr. to contact or communicate with his children, which would not have violated the terms of the consent judgment. However, A.D.B. Sr. made absolutely no attempt to

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(1) The victim consents to the communication through the local prosecuting agency.

(2) The victim and offender have consented to participation in a restorative justice program administered through the Department of Public Safety and Corrections.

(3) The communication is made through the counsel of the offender or the offender himself if he is representing himself at trial.

C. For purposes of this Section, "immediate family member" means the spouse, mother, father, aunt, uncle, sibling, or child of the offender, whether related by blood, marriage, or adoption.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(Emphasis added.)

contact his children during the period of nearly eighteen months when there was no statutory or judicial impediment to him doing so through such means.

Accordingly, the record establishes not only that A.D.B. Sr. voluntarily agreed not to have contact with his children in the February 2007 consent judgment but that he also failed for a period well in excess of six months to utilize the means permitted by the consent judgment *to attempt* to contact them. Under the circumstances, we agree with the juvenile court's finding that A.D.B. Sr.'s failure to *attempt* to visit or communicate with his children was voluntary on his part and due to factors within his control. See ***In re B.L.M.***, 136 So.3d at 10. Based on our thorough review of the record, we find no manifest error in the juvenile court's conclusion that the MGP proved by clear and convincing evidence that no "just cause" existed to excuse A.D.B. Sr.'s failure to attempt to visit or to communicate with his children for a period of at least six months.

This assignment of error lacks merit.

ASSIGNMENT OF ERROR NUMBER TWO

In his second assignment of error, A.D.B. Sr. argues he was prejudiced and the juvenile court committed manifest error in considering the facts and circumstances underlying his murder convictions in reaching its judgment when the court had previously ruled those facts would not be considered.

When counsel for the MGP offered into evidence a copy of the Supreme Court opinion[7] affirming A.D.B. Sr.'s convictions, the juvenile court ruled the opinion was admissible for the sole purpose of establishing "the conviction[s] and the finality thereof" and that it would not consider the statement of facts contained therein. A.D.B. Sr. points to comments the juvenile court made in its oral reasons as evidence that the juvenile court gave weight to the facts contained in the opinion, despite

[7] ***State v. Bell***, 09-0199 (La. 11/30/10), 53 So.3d 437, 462, cert. denied, 564 U.S. 1025, 131 S.Ct. 3035, 180 L.Ed.2d 856 (2011).

ruling it would not do so. Specifically, the juvenile court stated that A.D.B. Sr. brought about the instant situation through his "bad acts," and referenced the fact that he was on death row for murdering the children's mother and several other individuals. Based on these comments, A.D.B. Sr. contends the juvenile court erroneously considered facts not in evidence.

We find no error reflected in the juvenile court's comments. Contrary to A.D.B.'s contentions, the comments do not indicate the court considered any of the specific facts underlying A.D.B. Sr.'s offenses that were contained in the Supreme Court opinion. The juvenile court merely referred to the fact that A.D.B. Sr. was convicted of murdering the children's mother and four other individuals and had been sentenced to death for those offenses. These facts were established by evidence introduced at the hearing other than the Supreme Court opinion. In particular, a certified minute entry from the sentencing court, which reflected A.D.B. Sr.'s convictions and death sentences, was admitted into evidence at the May 8, 2017 hearing. Additionally, the MGP each testified to the fact that their daughter, who was the mother of the three children, was one of A.D.B. Sr.'s five murder victims.

This assignment of error lacks merit.

ASSIGNMENTS OF ERROR NUMBERS THREE AND FOUR

In these two related assignments of error, A.D.B. Sr. contends the trial court was manifestly erroneous in denying his request for a continuance, which he sought in order to subpoena Michael Gaines, a counselor who had seen the children on several occasions. A.D.B. Sr. asserts the juvenile court abused its discretion in determining (1) whether an intrafamily adoption was in the children's best interests and (2) whether post-adoption visitation with B.B. was in their best interests without hearing Mr. Gaines' testimony.[8]

[8] To the extent that this assignment of error relates to the juvenile court's ruling that visitation with B.B. was not in the children's best interest, we note that B.B. did not appeal the denial of her request for visitation with the children.

At the beginning of the second hearing on May 8, 2017, counsel for A.D.B. Sr. advised the court that she had received Mr. Gaines' report only the prior week. She indicated she would like to have Mr. Gaines present to explain his report, but did not have enough time to subpoena him for the hearing. The juvenile court deferred ruling on the matter at that time, stating, "[w]e will cross that bridge when we get there."

Toward the end of the hearing, counsel for A.D.B. Sr. raised the issue again by making an oral motion for a continuance so that Mr. Gaines could be subpoenaed to give his opinion that allowing visitation with B.B. would be in the children's best interest. Alternatively, if the juvenile court denied the motion for a continuance, counsel requested that the court not consider Mr. Gaines' report.[9] The juvenile court denied the motion to continue.

Under La. C.C.P. art. 1602, a continuance is mandatory if the movant shows: 1) that he has been unable, *with the exercise of due diligence*, to obtain evidence material to his case; or 2) a material witness has absented himself without the contrivance of the party applying for the continuance. In addition to the peremptory grounds set forth in La. C.C.P. art. 1602, the court has discretion to grant a continuance where there is good ground therefor. La. C.C.P. art. 1601. ***Landry v. Leonard J. Chabert Medical Center***, 02-1559 (La. App. 1st Cir. 5/14/03), 858 So.2d 454, 460, writs denied, 03-1748, 03-1752 (La. 10/17/03), 855 So. 2d 761. The denial of a motion for continuance will not be disturbed on appeal absent a showing of an abuse of discretion by the trial court. ***Newsome v. Homer Memorial Medical Center***, 10-0564 (La. 4/9/10), 32 So.3d 800, 802

In denying the motion for continuance in this case, the juvenile court stated:

> I'm going to note – This case has been going on since – This was filed in June a year ago. It's been going on for a really long time for one of

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[9] Mr. Gaines' report was not entered into evidence. Nor is there any indication in the record that the juvenile court considered the report in rendering its judgment.

> these cases. I'm going to note that we had conference in chambers prior to getting the report ... where the results and opinion were discussed. *So I know the opinion [of Mr. Gaines] has been known to the parties for much longer than just a week. I'm going to further note that there was no attempt to contact The Court to say this is what's going on, we're going to have this issue, maybe we can address it beforehand.* So I'm going to deny the motion to continue. [Emphasis added.]

Based on our review of the record, we find that no preemptory grounds for a continuance were established. No material witness had absented himself, nor did counsel for A.D.B. Sr. show she was unable to obtain material evidence in this case *despite the exercise of due diligence.* In fact, counsel did not indicate she made any effort whatsoever to obtain Mr. Gaines' presence voluntarily without the necessity of a subpoena, and she failed to file a written motion for continuance prior to the hearing date. Counsel failed to make a showing of due diligence. Further, A.D.B. Sr. has not shown that any "good ground" for a discretionary continuance existed under the circumstances. Thus, we find no abuse of discretion in the juvenile court's denial of a continuance.

These assignments of error lack merit.

CONCLUSION

For the reasons assigned, the rule to show cause issued by this court *ex proprio motu* is recalled and the appeal is maintained. Further, the May 24, 2017 judgment of the juvenile court rendered in favor of R.B. Jr. and C.H.B. and against A.D.B. Sr. and B.B. is hereby affirmed. All costs of this appeal are to be paid by A.D.B. Sr.

RULE TO SHOW CAUSE RECALLED AND APPEAL MAINTAINED; JUDGMENT AFFIRMED.