

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

IN THE MATTER OF NICHOLAS PRINCIPE

MINOR CHILD(REN)

: JUDGES:
: Hon. William B. Hoffman, P.J.
: Hon. Sheila G. Farmer, J.
: Hon. John W. Wise, J.
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: Case No. 2003CA00137
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: OPINION

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas,
Case No. J-114390

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 18, 2003

APPEARANCES:

For Appellee

SETH W. ARKOW
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101 Central Plaza South
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For Appellant

JERRY A. COLEMAN
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Farmer, J.

{¶1} The Stark County Department of Job and Family Services appeals from the judgment entered in the trial court denying the motion for permanent custody of the minor child, Nicholas Principe. Through its first assigned error, said department claims the trial court committed error by failing to issue findings of fact and conclusions of law in support of its decision.

{¶2} Upon review of the record, it appears that the appellant did timely request from the trial court findings of fact and conclusions of law. The record does not contain those findings of fact and conclusions of law. As such, we sustain that assigned error.

{¶3} We therefore dismiss the within appeal and remand this matter to the trial court to file appropriate findings of fact and conclusions of law as requested by the Stark County Department of Job and Family Services.

{¶4} Appeal dismissed.

By Farmer, J.

Wise, J. concur.

Hoffman, P.J. concurs in part; dissents in part.

Hoffman, P.J., concurring in part and dissenting in part

{¶5} I concur in the majority's analysis and decision to sustain appellant's first assignment of error. However, unlike the majority, I believe the proper disposition is to vacate the trial court's judgment and remand the issue for appropriate findings of fact and conclusions of law, not to dismiss the appeal.

{¶6} The majority opinion fails to mention appellant's other two assignments of error. I would sustain appellant's second assignment of error and order the trial court to issue an appropriate order of disposition as required by R.C. 2151.415(D)(3).

{¶7} Finally, I would find appellant's third assignment of error to be premature based upon our decision with respect to appellant's first assignment of error.

JUDGE WILLIAM B. HOFFMAN