

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2006

DEPARTMENT OF CHILDREN
AND FAMILIES,

Appellant,

v.

Case No. 5D05-4304

K.H. THE MOTHER AND
A.A. THE FATHER,

Appellees.

Opinion filed September 15, 2006

Appeal from the Circuit Court
for Seminole County,
Gene R. Stephenson, Judge.

Charles D. Peters, Orlando, for
Appellant.

Sean F. Bogle of Law Offices of Sean F.
Bogle, P.A., Altamonte Springs,
for Appellee K.H.

J. Manuel Acevedo, Sanford,
for Appellee A.A.

PER CURIAM.

In this dependency action, Appellant challenges the lower court's summary dismissal of the petition prior to the conclusion of the adjudicatory hearing. We reverse.

During an adjudicatory hearing on Appellant's petition for dependency, the trial court, *sua sponte*, summarily dismissed the petition after Appellant's first witness had

testified but before Appellant had concluded presenting evidence in support of the petition. In so doing, the lower court violated Appellant's right to due process. Therefore, the order is reversed and this matter is remanded with instructions that the court conduct a new hearing on Appellant's petition.

REVERSED and REMANDED.

PALMER, ORFINGER and TORPY, JJ., concur.