

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-SA-01036-COA

IN RE K.S., A MINOR: KRISTIN S.

APPELLANT

v.

**B.D. AND MISSISSIPPI DEPARTMENT OF
CHILD PROTECTION SERVICES**

APPELLEES

DATE OF JUDGMENT:	07/21/2025
TRIAL JUDGE:	HON. AMY DIANE FOSTER
COURT FROM WHICH APPEALED:	LINCOLN COUNTY YOUTH COURT
ATTORNEYS FOR APPELLANT:	MATTHEW BROOKS WHEAT MICHAEL T. SHAREEF
ATTORNEYS FOR APPELLEES:	RENEE H. BERRY JOSE BENJAMIN SIMO BRYAN C. WARDLAW
NATURE OF THE CASE:	CIVIL - CUSTODY
DISPOSITION:	AFFIRMED - 10/06/2026
MOTION FOR REHEARING FILED:	

CONSOLIDATED WITH

NO. 2025-SA-01040-COA

IN RE A.C., A MINOR: KRISTIN S.

APPELLANT

v.

**Z.C. AND MISSISSIPPI DEPARTMENT OF
CHILD PROTECTION SERVICES**

APPELLEES

DATE OF JUDGMENT:	07/21/2025
TRIAL JUDGE:	HON. AMY DIANE FOSTER
COURT FROM WHICH APPEALED:	LINCOLN COUNTY YOUTH COURT
ATTORNEYS FOR APPELLANT:	MATTHEW BROOKS WHEAT MICHAEL T. SHAREEF
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CIVIL - CUSTODY

DISPOSITION:

AFFIRMED - 10/06/2026

MOTION FOR REHEARING FILED:

BEFORE BARNES, C.J., McDONALD AND EMFINGER, JJ.

EMFINGER, J., FOR THE COURT:

¶1. In early 2021, Kristin S. lost custody of her two minor children, and the children were placed with their biological fathers by the Lincoln County Youth Court. On July 21, 2025, Lincoln County Youth Court Referee Amy Diane Foster entered an “Order Closing Youth Court Case” in each child’s case. In addition to closing both cases, the orders denied Kristin’s “Petition for Disposition Review” filed on July 24, 2024, wherein she asked the court for a review of her visitation rights or custody of her two minor children under the 2021 disposition orders. After her motion for reconsideration was denied in each case on August 5, 2025, Kristin appealed.

FACTS AND PROCEDURAL HISTORY

¶2. In January 2021, Kristin gave birth to a daughter, A.C.,¹ in Brookhaven, Mississippi. Although Kristin tested negative for controlled substances at that time, she admitted that she had used methamphetamine two days earlier. As a result of this admission, A.C. was drug tested, and the tests showed the presence of methamphetamine. A report was made to the Mississippi Department of Child Protection Services (CPS), as required by Mississippi Code Annotated section 43-21-353 (Rev. 2023).

¶3. CPS immediately began an investigation by speaking with Kristin while she was still

¹ Initials have been used in this case to protect the minor children’s identities.

in the hospital after A.C.’s birth. Based upon information provided by Kristin, CPS placed A.C. in the custody of her biological father, Z.C. At the time of A.C.’s birth, Kristin had a three-year-old son, K.S., who was placed in the custody of his biological father, B.D.² CPS discussed a safety plan with Kristin and told her to contact CPS after her discharge to arrange an “A & D assessment” at a mental-health facility.

¶4. The record shows that after Kristin’s release from the hospital, beginning on January 19, 2021, CPS met several times with Kristin and the biological fathers to review the family service plan designed to help Kristin regain custody of her children. The record shows that Kristin was not compliant with the plan. She failed to appear for several of her scheduled drug screens, and when she did appear, Kristin tested positive for controlled substances. After several months of Kristin’s non-compliant behavior, the Youth Court Intake Unit caused an intake order to be filed on May 23, 2021, requiring the youth court prosecutor to file a petition to adjudicate the children as abused. Pursuant to Mississippi Code Annotated section 43-21-451 (Rev. 2021), a formal petition was filed by the youth court prosecutor on May 25, 2021, to move forward with an adjudication hearing.³

¶5. On October 19, 2021, Lincoln County Youth Court Referee Bradley Russell Boerner

² We do not know how these men were determined to be the biological fathers of these children. There are no birth certificates, no custody or visitation orders from a divorce proceeding or a paternity action, and no testimony in the record to show their prior relationships to their children. However, Kristin has not challenged this finding either in youth court or here on appeal.

³ The cases for A.C. and K.S. were filed separately in youth court and appealed separately. The appellate briefs of the appellants are almost verbatim, and the cases have been consolidated by this Court for purposes of appeal.

conducted an adjudication hearing and found A.C. and K.S. to be abused children pursuant to section 43-21-105(m) (Rev. 2021). The court then went forward with a disposition hearing on that same day. In the disposition orders, both A.C. and K.S. were found to be abused children, and their custody was placed with their biological fathers. As will be shown below, however, both disposition orders were internally and materially contradictory.

¶6. In A.C.'s disposition order, the court first stated that A.C. had been adjudicated to be a "NEGLECTED CHILD"; in the following paragraph, the order stated that A.C. had been adjudicated as an "ABUSED CHILD." As to A.C.'s custody, the order first stated, "LEGAL CUSTODY MDCPS, PHYSICAL CUSTODY WITH RELATIVE." The very next paragraph stated that "PHYSICAL AND LEGAL custody of [A.C.] be and is hereby removed from KRISTIN . . . and placed with [Z.C.]." The final three paragraphs of the order provided:

AND FURTHER, this court finds that the permanency plan of REUNIFICATION WITH A PARENT OR PRIMARY CAREGIVER is appropriate and in the best interest of [A.C.] and that the concurrent plan of CUSTODY WITH A RELATIVE is appropriate and in the best interest of [A.C.].

IT IS THEREFORE ORDERED AND ADJUDGED that the permanency plan of REUNIFICATION WITH A PARENT OR PRIMARY CAREGIVER be and hereby adopted for [A.C.] and that the concurrent plan of CUSTODY WITH A RELATIVE be and hereby is adopted for [A.C.] and the Mississippi Department of Child Protection Services be and hereby is ordered to make reasonable efforts to achieve the permanency plan of REUNIFICATION WITH A PARENT OR PRIMARY CAREGIVER for [A.C.].

IT IS ORDERED AND ADJUDGED that the custody of the child shall be given to the biological father, [Z.C.]. . . . The biological mother, Kristin . . . shall enjoy visitation at the discretion and coordination of the father. The GAL and MDCPS are relieved of all duties.

In earlier parts of the order, CPS was given legal custody of A.C. and was ordered to use reasonable efforts to reunify A.C. with her mother. In the concluding paragraph, however, CPS and the GAL were relieved of all duties.

¶7. K.S.'s disposition order, which was much shorter, also first stated that K.S. was adjudicated to be a "NEGLECTED CHILD", but in the following paragraph it stated that he was adjudicated to be an "ABUSED CHILD." As to custody of K.S., the order stated:

IT IS ORDERED AND ADJUDGED that by way of disposition with regard to [K.S.] having been adjudicated to be a/an ABUSED CHILD in violation of §43-21-105(m) of the Mississippi Code of 1972, Annotated, as alleged in Count 1 of the Petition that the following disposition be and hereby is ordered for [K.S.]: LEGAL CUSTODY MDCPS, PHYSICAL CUSTODY WITH RELATIVE.

IT IS ORDERED AND ADJUDGED the custody of the child shall be given to the biological father, [B.D.] . . . The biological mother, Kristin . . . , shall enjoy visitation at the discretion and coordination of the father. The GAL and MDCPS is relieved of all duties.

Again, CPS was given legal custody of K.S. but then was relieved of all duties.

¶8. After the entry of the disposition orders in both cases on October 19, 2021, no action of record was taken until July 24, 2024, when Kristin filed her "Petition for Disposition Review." In the petition for review, Kristin alleged that she had been unreasonably denied visitation with the two minor children. She further pointed out that there had been no permanency hearing and no permanency order entered in either case. She asked that custody of the minor children be returned to her or, alternatively, that specific visitation rights be ordered for her.

¶9. The biological fathers filed answers to the petition and a motion to dismiss. On

January 14, 2025, all three biological parents and their attorneys appeared before Youth Court Referee Boerner, who, according to the orders, conducted a permanency hearing pursuant to Mississippi Code Annotated section 43-21-613 (Rev. 2023). While the appellate record does not contain a transcript of the hearing, the referee entered a permanency order in both cases on that date. In these orders, the referee noted that the 2021 disposition orders contained multiple errors. The court stated that the permanency orders were being entered to remedy those errors and to clarify that the court had awarded custody of both minors to their fathers on October 19, 2021.⁴ He ordered that custody of the children would remain with their fathers and set a hearing on Kristin’s petition for review for February 18, 2025. Apparently, the parties all appeared before Referee Boerner on February 18, and the court entered another permanency order in which the hearing on the petition was continued to April 22, 2025.

¶10. Through a series of events that are not clear from the appellate record, these cases came before a different youth court referee on July 20, 2025. On the next day, Referee Foster entered an “Order Closing Youth Court Case” in both cases. The record does not reflect that the parties appeared before Referee Foster on that date but, instead, that the orders were entered after she reviewed the matter and the filings in the cases. The orders recited that the

⁴ In K.S.’s case, the permanency order described his father’s custody as “DURABLE.” There was no mention of durable custody in the original disposition orders. Pursuant to the version of section 43-21-609(b) in place at the time of the order, the court may grant durable custody to any person when placement with a parent is “inappropriate, unavailable or otherwise not in the best interest of the child.” Since K.S. was placed in the custody of his father, we find that such custody should not have been described as “durable” under the statute.

custody of the children was placed with their fathers. Referee Foster noted that the 2021 orders were poorly drafted. She noted that Kristin filed a petition for review over two and a half years after the entry of the disposition orders. She recognized that the fathers had filed answers, a motion to dismiss the petition, and a motion to transfer the matter to chancery court and also noted that there were pending actions in chancery court concerning these minor children. The orders concluded as follows:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the language in the October 19, 2021 order which adopted reunification as a permanency plan contradicts the Court's earlier findings and was obviously a scrivener's error with the insertion of language automatically generated by MyKids and will be stricken from the Disposition Order.
2. That the Motion to Transfer is denied.
3. That the Motion for Post-Dispositional Review is denied.
4. That there is no further action available to the parties in this Youth Court action and it is hereby CLOSED.
5. A copy of this Order shall be provided to all counsel of record.

Each order was signed and entered on July 21, 2025.⁵

¶11. Although no written motion for reconsideration is found in the record on appeal, Kristin's counsel, according to the brief of the appellant, requested a reconsideration "via group email." Referee Foster held a hearing on the motion on August 5, 2025, and a transcript of that hearing is in the appellate record. The record shows that the attorneys for

⁵ In the orders, Referee Foster did not acknowledge that Referee Boerner had entered the permanency orders discussed above or that he had set Kristin's petition for review for hearing. It is also not clear how the case moved from Referees Boerner to Foster.

the biological parents were present, as well as Price Henley, who was listed as guardian ad litem (GAL) for the minor children. While Henley may have been appointed in chancery court, there is no evidence of Henley being appointed as GAL in the youth court cases. Joe Robert Norton IV was identified as the GAL at the adjudication and disposition hearings in 2021. He was relieved of further duties when the 2021 orders were entered.

¶12. In any event, at the beginning of the hearing, the referee noted that “we” met for the pending chancery court action a couple of weeks ago and that she entered the orders closing the youth court cases after that meeting. The referee noted that Kristin had filed the motion to reconsider and asked what she wished the court to reconsider. Counsel for Kristin indicated he had asked the court to reconsider the orders closing the cases, to consider Kristin’s motion to proceed in forma pauperis, and to consider Kristin’s petition for disposition review to gain custody of or at least specific visitation rights with her minor children. The motion to proceed in forma pauperis was granted, and Kristin was allowed to proceed on her petition to review the 2021 disposition orders.

¶13. Kristin’s attorney called GAL Henley, who was the only witness to testify at the hearing. Henley testified that he “believed” that he had been appointed as GAL in youth court and chancery court. As to his involvement in the youth court cases, he indicated that he understood his role was to weigh in on whether visitation between the minors and Kristin should begin. He told the court that, in his opinion, it should not. Henley told the court that Kristin was still under indictment for possession of a controlled substance in a jail facility. He testified that he had reviewed court filings from drug court and that Kristin had been

sanctioned several times for non-compliance with drug court rules. He noted that Kristin had recently been convicted of simple assault in Brookhaven. Henley told the court about social media posts he had reviewed that convinced him that Kristin was unstable. According to Henley, Kristin had not visited with the children in some time. He noted that with the action for termination of Kristin's parental rights and adoption of the children pending in chancery court, he did not believe it to be in the best interest of the children to begin visitation with Kristin. Henley indicated that he had reviewed these matters since his appointment sometime in 2025. Based upon his review, Henley testified that he did not believe that Kristin had been unreasonably denied visitation with her children. Henley further testified that Kristin had tested positive for a controlled substance in March 2025 and that in 2023, she was in a treatment facility while she was again pregnant.

¶14. In his closing argument at this hearing, Kristin's counsel admitted that Kristin had testified⁶ that she was a drug addict and was trying to do better. He argued that not being able to see her children was not helpful and increased her stress. He asked the court to grant Kristin at least some supervised visitation. After hearing the arguments of all counsel for the parties, the referee made a ruling from the bench. She stated that after her review of the 2021 disposition orders and the case file, it was clear to her that custody of the minors was given to their fathers. As a result, the GAL and CPS were relieved of any further duties, and, with that, the cases *should have been closed*. In the written order after the hearing on the motion to reconsider, the youth court again concluded:

⁶ We do not have a transcript of any hearing where Kristin testified.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Disposition Review is denied, the Motion to Transfer filed on December 9, 2024 is denied and the Motion to Dismiss filed on December 10, 2024 is denied. This matter is closed and jurisdiction is terminated.

¶15. Kristin appealed each “Order Closing Youth Court Case” dated July 21, 2025, and the denial of reconsideration on August 5, 2025.

STANDARD OF REVIEW

¶16. The standards of review we must use in these appeals are set forth in two cases: in *Altman v. State*, 340 So. 3d 293, 294 (¶6) (Miss. 2022), the supreme court held:

“Jurisdiction is a question of law and is [therefore] reviewed de novo.” *In re Int. of M.I.*, 85 So. 3d 856, 857 (Miss. 2012). Likewise, “[s]tatutory interpretation is a question of law subject to de novo review.” *Tipton v. State*, 150 So. 3d 82, 84 (Miss. 2014) (citing *Arceo v. Tolliver*, 19 So. 3d 67, 70 (Miss. 2009)).

And in *In re D.K. v. Youth Court of Lincoln County*, 377 So. 3d 991, 1001 (¶30) (Miss. Ct. App. 2023), we held:

“The appellate standard of review for youth court proceedings is the same as that which [our appellate courts] appl[y] to appeals from chancery court.” *A.B. v. Lauderdale Cnty. Dep’t of Hum. Servs.*, 13 So. 3d 1263, 1266-67 (¶14) (Miss. 2009) (citing *B.R.C. v. State (In re S.C.)*, 795 So. 2d 526, 529 (¶11) (Miss. 2001)).

This Court will not disturb a chancellor’s findings unless they were manifestly wrong or clearly erroneous, or the chancellor applied an erroneous legal standard. Chancellors are afforded wide latitude in fashioning equitable remedies in domestic-relations matters, and their decisions will not be reversed if the findings of fact are supported by substantial credible evidence in the record. When reviewing a chancellor’s decision, we will accept a chancellor’s findings of fact as long as the evidence in the record reasonably supports those findings. The chancellor’s interpretation and application of the law is reviewed de novo.

Kay v. Kay, 352 So. 3d 198, 203 (¶17) (Miss. Ct. App. 2022) (quoting *Stuckey v. Stuckey*, 341 So. 3d 1030, 1036 (¶13) (Miss. Ct. App. 2022)).

ANALYSIS

¶17. While the issues presented for review are not properly set out as required by Mississippi Rule of Appellate Procedure 28(a)(3), in a three-page brief, Kristin contends that the youth court erred by closing the cases without first hearing Kristin’s petition to review her visitation rights with her minor children and/or custody of her minor children. She contends that at the time she filed her petitions for review, the cases for K.S. and A.C. were still open in youth court. She points out that there had been no permanency hearings and no permanency orders in either case when she filed her petition. Further, she argues that there had been no periodic reviews of the disposition orders as required by law. Therefore, she contends that the new youth court referee erred by closing the cases without first conducting a hearing on her petitions. Kristin asks that the cases be remanded to youth court for a full consideration of the merits of her petitions. Finding no reversible error, we affirm the youth court’s decision.

¶18. To understand what was required of the youth court in these cases, we will briefly review the history again. An adjudication hearing was conducted, and the children were adjudicated to be abused children.⁷ A disposition hearing was conducted on that same day,

⁷ The adjudication order in K.S.’s case stated that he was adjudicated a “NEGLECTED CHILD.” The disposition order also, at first, finds that K.S. was adjudicated to be a “NEGLECTED CHILD” but later stated that he had been adjudicated as an “ABUSED CHILD” in violation of section 43-21-105(m). The same confusion appears in A.C.’s orders. In both, however, we find that the youth court adjudicated the children to have been abused pursuant to the statute.

which complies with the timing requirements of Mississippi Code Annotated section 43-21-601(1) (Rev. 2023). Mississippi Code Annotated section 43-21-603(7) (Rev. 2023) provides, in part:

If the youth court orders that the custody or supervision of a child who has been adjudicated abused or neglected be placed with the Department of Child Protection Services or any other person or public or private agency, other than the child's parent, guardian or custodian, the youth court shall find and the disposition order shall recite that

(Emphasis added). Because the two children were placed with their fathers, the additional requirements of this section are not applicable to these cases. Pursuant to the version of Mississippi Code Annotated section 43-21-609 (Rev. 2021) that was in effect at the time of the disposition rulings, custody of the children was placed with their fathers; therefore, the additional requirements of this section are also not applicable to these cases.

¶19. However, pursuant to the version of section 43-21-613(3)(a) in effect at the time of the disposition orders, the youth court was required to conduct a permanency hearing, at the latest, within twelve months of the adjudication hearing. Miss. Code Ann. §43-21-613 (Rev. 2021). This is true because the youth court's disposition orders did not expressly terminate youth court jurisdiction over these cases. This was explained by the supreme court in *In re M.I.*, 85 So. 3d 856, 858 (¶¶9-10) (Miss. 2012):

The Constitution of the State of Mississippi grants the chancery court “full jurisdiction” over “minor's business.” Miss. Const. art. 6, § 159(d). It also allows the Legislature to establish inferior courts, such as youth court. Miss. Const. art. 6, § 172; *In re T.L.C.*, 566 So. 2d 691, 696 (Miss. 1990). The Youth Court Act grants the youth court “exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child.” Miss. Code Ann. § 43-21-151(1) (Rev. 2009) (emphasis added); *see also K.M.K.*, 775 So. 2d at 118.

The youth court retains such jurisdiction over the child until the child's twentieth birthday, unless such jurisdiction is "sooner terminated by order of the youth court." Miss. Code Ann. § 43-21-151(2) (Rev. 2009); *see also* *Petition of Beggiani*, 519 So. 2d 1208, 1211 (Miss. 1988) (recognizing that the youth court's jurisdiction over a child continues until the age of twenty "for the offense and purpose of the 'neglected or abused' subject matter"). The youth court also possesses the authority to modify a disposition order regarding custody or disposition of a child upon motion of a child or child's parent, guardian, or custodian. Miss. Code Ann. § 43-21-613(2) (Rev. 2009).

It is clear that the youth court in this case possessed original jurisdiction, as M.I. and T.I. were adjudicated neglected and abused, thus falling squarely within the purview of Mississippi Code Section 43-21-151(1). Further, based on the statutory authority of youth courts to modify disposition orders and to retain jurisdiction over an abused or neglected child until the child reaches age twenty, we conclude that the youth court in this case clearly retains jurisdiction over the matter so long as it did not otherwise terminate its jurisdiction.

In the present case, the youth court retained jurisdiction over A.C.'s and K.S.'s cases because the disposition orders did not "otherwise terminate its jurisdiction." We note that the youth court did not conduct a permanency hearing until January 2025.

¶20. Even though the youth court failed to timely hold a permanency hearing and failed to conduct mandatory reviews of the disposition orders,⁸ we find that Kristin, at any time, could have filed her petition for a review of the disposition orders. Section 43-21-613(2) provides:

On motion of a child or a child's parent, guardian or custodian, the youth court may, in its discretion, conduct an informal hearing to review the disposition order. If the youth court finds a material change of circumstances relating to the disposition of the child, the youth court may modify the disposition order to any appropriate disposition of equal or greater precedence which the youth court could have originally ordered.

⁸ We find any error by the youth court in failing to follow statutory procedure to be harmless because Kristin failed to put on any proof of actual prejudice when she was given the opportunity to do so at the August 5, 2025 hearing. *See In re K.G.*, 957 So. 2d 1050, 1053 (¶12) (Miss. Ct. App. 2007).

Thus, her petition for disposition review was properly filed at a time when the youth court had not terminated its jurisdiction in these cases. Because Kristin’s petition was properly filed and pending, the youth court referee acted prematurely on July 21, 2025, by closing the cases without a hearing and without addressing the merits of Kristin’s petition.

¶21. However, despite Kristin’s argument on appeal, the youth court remedied this error by conducting a hearing on the petition for review on August 5, 2025. In her petition, Kristin had sought to modify the disposition orders to return custody of A.C. and K.S. to her, or to grant her specific visitation rights. According to the above statute, Kristin had the burden at this hearing to show that there had been “a material change in circumstances relating to the disposition of the child.” *Id.* After our review of the transcript from that hearing, as noted above, we find that Kristin failed to meet that burden. Our standard of review of the referee’s decision is set out in *In re A.B.*, 419 So. 3d 976, 981-82 (¶32) (Miss. Ct. App. 2025):

Our review of youth court cases is limited. *Kevin v. Miss. Dep’t of Child Prot. Servs.*, 341 So. 3d 1014, 1018 (¶9) (Miss. Ct. App. 2022). The youth court judge, sitting without a jury, is the trier of fact. *Id.* Findings of fact by a youth court judge “will not be overturned where they are supported by substantial evidence in the record, unless manifestly wrong.” *In re S.A.M.*, 826 So. 2d 1266, 1274 (¶17) (Miss. 2002). Decisions regarding witness credibility are left to the youth court judge as the fact finder. *See In re D.O.*, 798 So. 2d 417, 422 (¶17) (Miss. 2001) (“The trier of fact chose to believe Dr. Townsend over Dr. Islam, and [the child] over the parents. Such is the charge of the fact finder.”).

The GAL’s testimony at the hearing provided substantial evidence to support the referee’s decision to deny Kristin’s petition. Kristin’s arguments on appeal are without merit.

CONCLUSION

¶22. We find that Lincoln County Youth Court had jurisdiction to consider Kristin’s

petition for disposition review. Kristin was given a hearing on this petition on August 5, 2025, and failed to meet her burden of proof to obtain a change in custody or visitation. While the youth court may have failed to follow statutory requirements concerning permanency and review hearings, any failure is harmless because Kristin failed to put on any proof of actual prejudice she suffered as a result of such failures. We further find that the August 5, 2025 orders terminated youth court jurisdiction over these cases.

¶23. **AFFIRMED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, McDONALD, LAWRENCE, McCARTY, WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR.