

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

C.J. and E.J., IN THE INTEREST
OF D.K.R., A CHILD,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D10-5174

STATE OF FLORIDA,

Appellee.

/

Opinion filed April 13, 2011.

An appeal from the Circuit Court for Nassau County.
Robert M. Foster, Judge.

Gary Baker, Callahan, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee; and Jody Greene, Yulee, for
Appellee.

WOLF, J.

Appellants seek review of an order granting appellee's unsworn Motion to Dismiss appellants' Petition for Dependency. We reverse because the factual allegations contained within the four corners of the pleading, when construed in favor of appellants, are legally sufficient to prove dependency pursuant to section

39.01(15), Florida Statutes (2010). See Dep’t of Children & Families v. R.V., 917 So. 2d 334 (Fla. 5th DCA 2005) (noting that motions to dismiss filed pursuant to Florida Rule of Juvenile Procedure 8.235(b) are akin to motions to dismiss for failure to state a cause of action in civil proceedings); Locker v. United Pharm. Group, Inc., 46 So. 3d 1126, 1128 (Fla. 1st DCA 2010) (noting that a trial court must accept all factual allegations in the four corners of an initial pleading as true and must construe those facts in a manner favorable to the filing party when considering a motion to dismiss); C.J. v. Dep’t of Children & Families, 756 So. 2d 1108, 1110 (Fla. 3d DCA 2000) (finding Guardian Ad Litem’s report was inadmissible hearsay).*

REVERSED.

PADOVANO and ROWE, JJ., CONCUR.

* Had the motion to dismiss been sworn and filed pursuant to Florida Rule of Juvenile Procedure 8.235(c), the actions of the trial court may have been justified. It appears, however, the trial court made factual findings based on unsworn allegations.