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SUMMARY
September 17, 2026

2026 COA 71

No. 25CA2369, *People in Interest of S.A.H.* — Juvenile Court — Dependency and Neglect — Uniform Parentage Act — Presumption of Paternity; Appeals — Final Appealable Order

A division of the court of appeals concludes, for the first time in a published decision, that when a juvenile court in a dependency and neglect case enters an order determining the child's parentage by resolving competing presumptions of paternity, that order is a final and appealable order because it fully resolved a discrete proceeding embedded within the dependency and neglect case. *See In re Marriage of Wiggs*, 2025 COA 10. In reaching this conclusion, the division disagrees with the analysis (but not the conclusion) of a different division of this court in *People in Interest of N.S.*, 2017 COA 8, which held that the order was final and appealable merely because it finally resolved all issues as to the party who was declared not to be the legal father.

Court of Appeals No. 25CA2369
City and County of Denver Juvenile Court No. 24JV30818
Honorable Laurie Clark, Judge

The People of the State of Colorado,

Petitioner,

In the Interest of S.A.H. and D.A.H., Children,

and Concerning H.C.H. and E.A.M. a/k/a E.A.H.,

Appellants.

ORDER AFFIRMED

Division II
Opinion by CHIEF JUDGE TOW
Harris and Brown, JJ., concur

Prior Opinion Announced August 20, 2026, WITHDRAWN

Opinion Previously Announced as “**NOT PUBLISHED PURSUANT TO
C.A.R. 35(e)**” on August 20, 2026, is now Designated for Publication

Announced September 17, 2026

Miko Brown, City Attorney, Christina R. Kinsella, Assistant City Attorney,
Denver, Colorado, for Petitioner

Samantha Metsger, Guardian Ad Litem

Just Law Group, LLC, John F. Poor, Denver, Colorado, for Appellant H.C.H.

Robin Tieman, Office of Respondent Parents’ Counsel, Boulder, Colorado, for
Appellant E.A.M. a/k/a E.A.H.

¶ 1 H.C.H. (mother) and E.A.M. a/k/a E.A.H. (psychological father) appeal the order adjudicating A.S. (biological father) the legal father of S.A.H. and D.A.H. (the children). This appeal requires us to determine whether a parentage order resolving competing presumptions of paternity that is issued in a dependency and neglect case is a final and appealable order. We conclude that it is and, addressing the merits, affirm the order.

I. Background

¶ 2 Psychological father accompanied mother to the hospital when she gave birth to the children, who are twins. The Denver Department of Human Services received a report that mother tested positive for methamphetamine and amphetamine and that she and psychological father appeared “very sleepy” at the hospital. At the time of the children’s birth, a separate dependency and neglect case was pending concerning the couple’s child, O.H., who is not at issue in this appeal. According to the Department, that case had been opened due to concerns about the parents’ substance use and domestic violence by psychological father against mother.

¶ 3 The Department took temporary custody of the children upon their discharge from the hospital, filed a petition in dependency or

neglect, and placed the children with psychological father's mother, with whom O.H. also lived. Both psychological father and biological father (whose last name was unknown at the time) were listed as alleged fathers on the petition.

¶ 4 Genetic testing determined that psychological father was not a genetic parent, though he continued to consider the children his own. Psychological father never lived in the same home as the children and became incarcerated nearly a year after the case was opened.

¶ 5 Mother encouraged biological father, with whom she had had a brief relationship, to contact the Department after the children were born. Biological father contacted the Department and scheduled genetic testing appointments but never attended them. He later testified that he learned the children were his after his own father completed genetic testing, which led him to follow up with the Department.

¶ 6 The court held a parentage hearing at psychological father's request. At the time of the hearing, biological father had not yet met the children and psychological father remained in custody. Each man argued that he was a presumed parent under Colorado's

Uniform Parentage Act (UPA). Biological father asserted a presumption based on the genetic testing results. Psychological father claimed that he was a presumed parent because he held himself out to be the children's father. Mother and the children's guardian ad litem (GAL) supported psychological father's position.

¶ 7 In its oral ruling, the juvenile court appeared to question whether psychological father met an element of the presumption he had asserted because he had not "tak[en]" the children "in." See § 19-4-105(1)(d), C.R.S. 2026 (a person is a presumed parent if they receive the child into their home and openly hold out the child as their natural child). The court did not find, however, that psychological father failed to establish the presumption. Rather, the court afforded psychological father the presumption but then resolved the conflicting presumptions in favor of biological father, adjudicating him the legal father of the children.

¶ 8 Psychological father and mother both appeal.

II. Appellate Jurisdiction

¶ 9 Before addressing the merits of the juvenile court's order, we first discuss two jurisdictional matters: whether the juvenile court's

parentage ruling was a final, appealable order and whether mother has standing to appeal it.

¶ 10 After mother filed her notice of appeal, this court ordered that she show cause why her appeal should not be dismissed for lack of either (1) standing to appeal or (2) a final, appealable order.

Following mother's response, this court ordered psychological father to show cause why his appeal should not be dismissed for lack of a final, appealable order. A motions division of this court deferred both questions to the merits division and permitted the parties to address the issues in their briefs.

¶ 11 We begin by addressing finality and then turn briefly to the question of mother's standing to appeal.

A. Final and Appealable Order

¶ 12 With limited exceptions, our subject matter jurisdiction is limited to the review of final judgments. *See L.H.M. Corp., TCD v. Martinez*, 2021 CO 78, ¶ 14. "[A]s a general rule, a judgment is final and therefore appealable if it disposes of the entire litigation on its merits, leaving nothing for the court to do but execute the judgment." *Id.* (quoting *Baldwin v. Bright Mortg. Co.*, 757 P.2d 1072, 1073 (Colo. 1988)).

¶ 13 A division of this court has treated an order like the one at issue here — a parentage determination issued within a dependency and neglect case — as a final and appealable order. *People in Interest of N.S.*, 2017 COA 8, ¶ 10. In that case, as here, the court was faced with two presumptive fathers — one (the mother’s boyfriend) who held a presumption because he had held the children out as his own and one who had been determined to be the biological father — and resolved the competing presumptions in favor of the biological father. *Id.* at ¶¶ 7-8. The party who was declared not to be the father appealed. The division, addressing whether that party had timely appealed the order, observed without analysis that “the judgment of paternity constituted a final judgment with respect to boyfriend.” *Id.* at ¶ 10.

¶ 14 While we agree with the *N.S.* division’s ultimate treatment of the parentage order as final and appealable, we do not agree with the division’s implicit basis for that determination. A parentage order issued in a dependency and neglect case is not final and appealable merely because it “constituted a final judgment with respect to” the party who was declared not to be the legal father. *Id.* Generally, when there are multiple parties to an action, an order

resolving all issues as to only one party is not final and appealable until *all* claims are resolved as to *all* parties. *Musick v. Woznicki*, 136 P.3d 244, 250 (Colo. 2006). The parentage order did not resolve all issues for all parties in the case.

¶ 15 Instead, we conclude that the order is final and appealable for a different reason. Even when the entire litigation is not resolved, an order may be deemed to be final and appealable when it “terminate[s] a discrete proceeding embedded within another.” *In re Marriage of Wiggs*, 2025 COA 10, ¶ 11. In *Wiggs*, the division treated as final and appealable a permanent protection order issued within an ongoing dissolution case, *id.* at ¶ 24, because, among other reasons, the protection order motion “effectively commence[d] a discrete action for ‘separate and independent relief.’” *Id.* at ¶ 17 (quoting *In re Marriage of Mockelmann*, 944 P.2d 670, 672 (Colo. App. 1997)). Other examples of orders that have been treated as final and appealable in the midst of ongoing litigation include an order resolving a discrete petition raising a creditor’s claim against a decedent’s estate, *In re Estate of Gadash*, 2017 COA 54, ¶ 32, and an order denying a motion for contempt on the merits, *People v. Proffitt*, 865 P.2d 929, 931 (Colo. App. 1993).

¶ 16 In the instant case, psychological father triggered a discrete parentage proceeding within the dependency and neglect matter when he requested a hearing on the disputed parentage issue. While not the case here, a party may have a parentage dispute resolved by initiating a standalone action. § 19-4-107(1)-(3), C.R.S. 2026; *cf. Wiggs*, ¶ 17 (noting the same for civil protection orders). Either way, courts resolve parentage actions under a different statutory scheme than they do dependency and neglect matters. *See People in Interest of O.S.-H.*, 2021 COA 130, ¶ 40 (holding that parentage disputes raised in dependency and neglect cases must be resolved pursuant to the UPA); *cf. Wiggs*, ¶ 17 (noting that a protection order proceeding within a dissolution of marriage action is a discrete action for separate and independent relief in part because each proceeding is “governed by a separate statutory scheme, and concern[s] a different subject matter”).

¶ 17 We conclude that the parentage of the children was an issue presented in a “discrete action for ‘separate and independent relief,’” *Wiggs*, ¶ 17 (quoting *Mockelmann*, 944 P.2d at 672), that was embedded in the dependency and neglect action. The juvenile court’s order resolved the competing parentage presumptions of the

two putative fathers. It was undisputed that mother was the children's other parent. Thus, the court's order fully resolved the issue of the children's parentage. *See People in Interest of K.L.W.*, 2021 COA 56, ¶ 21 (recognizing that, under the UPA, a child is limited to having just two legal parents). Put another way, there was nothing further for the court to do to determine the rights of the parties with respect to parentage. *See L.H.M. Corp.*, ¶ 14. Consequently, the juvenile court's order is final and appealable.

B. Mother's Standing to Appeal

¶ 18 Next, we turn to the second issue that was deferred to the merits division: mother's standing to appeal the parentage decision.

¶ 19 A person has standing to appeal if they were (1) a party to the action in the trial court and (2) a "losing person." *Arapahoe Cnty. Dep't of Hum. Servs. v. People in Interest of D.Z.B.*, 2019 CO 4, ¶ 7 ("There is no independent requirement that a party to a proceeding establish standing to appeal."). Mother was obviously a party to the action. But it is less clear whether she is a "losing person" merely because one putative father, rather than the other, was named the children's legal father. That decision did not affect *her* legal relationship with the children.

¶ 20 We recognize that, because standing is a jurisdictional issue, we must generally address that issue before reaching the merits. *Gleneagle Civic Ass’n v. Hardin*, 205 P.3d 462, 465 (Colo. App. 2008). Moreover, a court should not *assume* that it has jurisdiction, because “any action taken by a court when it lacks jurisdiction is a nullity.” *People v. Widhalm*, 991 P.2d 291, 293 (Colo. App. 1999). Nonetheless, this case presents a rare scenario in which a party that indisputably has standing has filed a timely appeal and another party whose standing is disputed has also filed a timely appeal in the same case, seeking identical relief on identical grounds. There is no danger that our decision would be a nullity because the sole issue — the propriety of the parentage determination — is properly before us through psychological father’s appeal. Hence, our resolution of that issue will resolve the parentage issue for all parties, meaning mother’s participation (or nonparticipation) in this appeal is of no import.

¶ 21 Of course, we are also mindful of “the ‘cardinal principle of judicial restraint — if it is not necessary to decide more, it is necessary not to decide more.’” *Mulberger v. People*, 2016 CO 10, ¶ 23 (Gabriel, J., concurring in the judgment) (quoting *PDK Lab’ies*

Inc. v. U.S. Drug Enf't Admin., 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in the judgment)). This is particularly true when a case presents an issue of constitutional magnitude — such as whether mother's right to the care, custody, and control of her children provides her standing to appeal a parentage decision resolving competing presumptions of parentage held by multiple putative fathers — but the case can be resolved without reaching the constitutional issue. *See Cnty. Ct. v. Allen*, 442 U.S. 140, 154 (1979) (observing that courts have a “strong duty to avoid constitutional issues that need not be resolved”).

¶ 22 Therefore, in this narrow circumstance, we conclude that the interest in avoiding the unnecessary resolution of issues takes precedence over the general rule that jurisdiction must be fully resolved. With that in mind, and in light of our resolution of the merits of the matter, it is not necessary for us to decide whether mother has standing. Accordingly, we decline to do so. *See Lobato v. State*, 218 P.3d 358, 368 (Colo. 2009) (noting that it was not necessary to resolve a challenge to the standing of certain parties

because those parties were “bringing the same claims as parties with standing”).

III. Merits of the Parentage Order

¶ 23 Turning to the merits of the juvenile court’s parentage determination, we discern no error.

A. Applicable Law and Standard of Review

¶ 24 As noted, when a parentage issue arises in a non-parentage proceeding, as in this dependency and neglect case, the juvenile court must follow the procedures set forth in the UPA. *O.S-H.*, ¶ 40.

¶ 25 The UPA provides five ways in which a person may be a presumed parent of a child. § 19-4-105(1)(a)-(d), (f). As noted, a person is presumed to be the natural parent if the person “receives the child into the person’s home and openly holds out the child as the person’s natural child” (the holding out presumption).

§ 19-4-105(1)(d). Another presumption arises if genetic testing shows the person is not excluded as the probable biological parent and “the probability of the person’s genetic parentage is ninety-seven percent or higher” (the biological presumption).

§ 19-4-105(1)(f).

¶ 26 A party wishing to rebut a presumption that has arisen must do so by clear and convincing evidence. § 19-4-105(2)(a); *K.L.W.*, ¶ 70. But when two or more conflicting presumptions arise and are not rebutted, “the presumption that, on the facts, is founded on the weightier considerations of policy and logic controls.”

§ 19-4-105(2)(a). In determining which presumption controls, the court must consider all pertinent factors, including those listed in section 19-4-105(2)(a), and focus on the child’s best interests. See *K.L.W.*, ¶ 41.

¶ 27 We review for an abuse of discretion the juvenile court’s fact-intensive process of weighing the UPA factors and the child’s best interests to determine which presumption should control. See *W.C. in Interest of A.M.K.*, 907 P.2d 719, 722-23 (Colo. App. 1995). A court abuses its discretion when it misapplies or misconstrues the law or its ruling is manifestly arbitrary, unreasonable, or unfair. *People in Interest of E.B.*, 2022 CO 55, ¶ 14. We defer to the court’s factual findings if they are supported by the record. *K.L.W.*, ¶ 42. But we review de novo whether the court applied the correct legal standard. *Id.*

B. Analysis

¶ 28 As noted, the juvenile court determined that each putative father was entitled to a presumption of parentage. In resolving which of the competing presumptions controlled, the juvenile court considered the section 19-4-105(2)(a) factors and made findings relating to them. Specifically, it made the following findings, which have record support:

- Biological father was in the community, employed, and housed, albeit not in housing where the children could live.
- While biological father had to “work on” his alcohol and marijuana use, his substance use had not impacted his ability to remain employed.
- Biological father had not yet met the children, and his sole visit was cancelled due to the children being ill.
- Psychological father had exercised the role of father since mother’s pregnancy.
- Psychological father had not yet transitioned from being in custody to engaging in services that would assist him with his “sobriety, mental health stability, and overall stability in the community.”

- Psychological father had recently confessed a motion to terminate his parental rights to O.H.
- Psychological father would remain engaged with the children regardless of the parentage decision because of their placement with his mother.
- The children were one year old and within the window of forming healthy attachments to new caregivers.

¶ 29 In addition, the court noted that the possibility of a return home was central to its “best interest[s]” analysis and found that such a possibility was more likely with biological father. After consulting the statute governing the termination of parental rights for guidance on parental fitness, it also found that biological father could be available to parent the children within a reasonable time. *See* § 19-3-604(1)(c)(II)-(III), (2), C.R.S. 2026. The court thus determined that it was in the children’s best interests to adjudicate biological father their legal father. *See K.L.W.*, ¶ 41.

¶ 30 The court rejected psychological father’s assertion that he should be named the children’s legal father to preserve their placement with their sibling, O.H. In doing so, the court opined that a ruling in biological father’s favor would not negatively impact

the children's sibling relationships with O.H., particularly because all three children share the same mother and they have a legal right to their sibling relationships. See § 19-7-203(1), C.R.S. 2026 (enumerating the rights of sibling youth in foster care, including those relating to placement, family time, and contact with their siblings).

¶ 31 The record reflects that the court considered the pertinent statutorily enumerated factors, including (1) the nature of the existing parent-child relationship; (2) the children's relationship to each presumed father; (3) the length of time the presumed parent has assumed the role of parent; (4) the disruption of the presumed parent and child relationship or the chance of harm to the child; and (5) the children's age. See § 19-4-105(2)(a). And the court explicitly considered the children's best interests. See *N.A.H. v. S.L.S.*, 9 P.3d 354, 363 (Colo. 2000) (holding that the juvenile court must focus on the child's best interests when resolving competing presumptions). We thus discern no abuse of discretion in its decision. See *W.C.*, 907 P.2d at 722-23.

¶ 32 Furthermore, the court's ruling shows no indication that it either treated the biological presumption as dispositive or accorded

it a heavier weight than the holding out presumption. *See N.A.H.*, 9 P.3d at 361-62 (recognizing that none of the presumptions, including the biological presumption, are conclusive). In fact, the court clarified before the hearing began that the two presumptions were equal, neither “higher” than the other.

¶ 33 We recognize that there was evidence in the record that supported psychological father’s position. To be sure, the court explicitly considered that he had exercised a parental role since mother’s pregnancy, attended family time while not in custody, and received updates on the children while incarcerated. It also recognized that biological father had not met the children and had made little effort to determine if he was a genetic parent.

¶ 34 However, the court weighed *all* the evidence before concluding that biological father’s presumption controlled. It is not our role to reweigh the evidence or substitute our judgment for that of the juvenile court. *See K.L.W.*, ¶ 62; *see also People in Interest of A.J.L.*, 243 P.3d 244, 249-50 (Colo. 2010) (“[I]t is important to defer to the [juvenile] court . . . when it hears contradictory testimony on material issues”). Accordingly, we do not second-guess its prioritization of a return home for the children. *See N.A.H.*, 9 P.3d

at 364-65 (“Affording the trial judge significant deference recognizes the myriad relevant facts that may properly influence a trial judge’s [parentage] decision.”).

¶ 35 We are not persuaded otherwise by the fact that the GAL supported psychological father’s position. While a GAL may make recommendations to the court about a child’s welfare, *see* § 19-3-203(5), C.R.S. 2026, it is the province of the juvenile court to determine which of the conflicting presumptions controls after considering all the pertinent factors, *see* § 19-4-105(2)(a). Moreover, we note that, on appeal, the GAL has taken no position on this point.

¶ 36 In sum, the juvenile court’s parentage determination was neither based on a misapplication of the law nor manifestly arbitrary, unreasonable, or unfair. *See W.C.*, 907 P.2d at 722-23. The court was faced with two reasonable options, from which it chose one. *See People in Interest of S.L.*, 2017 COA 160, ¶ 51 (“[W]here, as here, an abuse of discretion standard applies, ‘the test is not “whether we would have reached a different result but, rather, whether the trial court’s decision fell within a range of reasonable options.”’” (quoting *People in Interest of T.B.*, 2016 COA

151M, ¶ 60)). Therefore, we cannot say that the court abused its discretion in resolving the competing presumptions of parentage and adjudicating biological father the children's legal parent. See *E.B.*, ¶ 14.

IV. Disposition

¶ 37 The order is affirmed.

JUDGE HARRIS and JUDGE BROWN concur.