

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs March 2, 2005

IN RE M.J.M., JR., L.P.M., & C.A.O.M.

**Appeal from the Juvenile Court for White County
No. JU 1839 Sam Benningfield, Judge**

No. M2004-02377-COA-R3-PT - Filed April 14, 2005

PATRICIA J. COTTRELL, J., concurring.

I agree fully with the majority's resolution of this case and the issues raised therein. I write separately, however, to express my concern with the apparent inconsistency in the grounds alleged by the Department. Specifically, while the parents' failure to make reasonable efforts to provide a suitable home for the first four months after removal of the child from the home is a definition of abandonment, Tenn. Code Ann. § 36-1-102(1)(A), it is questionable to me whether the Department can rely on that ground when it has entered into a permanency plan that gives a parent one year to find stable and suitable housing. The majority found that ground unavailable because the Department did not use reasonable efforts, making it unnecessary to address my concern. I agree with that conclusion, but want to make it clear that some question about reliance on that ground may exist regardless of the Department's efforts.

PATRICIA J. COTTRELL, J.