

Shary EVANS v.
ARKANSAS DEPARTMENT OF HUMAN SERVICES
CA 94-424 892 S.W.2d 525
Court of Appeals of Arkansas
En Banc
Opinion delivered February 8, 1995

1. PARENT & CHILD — TERMINATION OF PARENTAL RIGHTS — INDIGENT PARENT — RIGHT TO COUNSEL. — Appellant's right to counsel in this proceeding is established by Arkansas Code Annotated § 9-27-316(f) (Repl. 1993) which states that a parent or guardian has the right to be represented by appointed counsel, if indigent, during all stages of any proceeding to terminate parental rights or remove custody of a juvenile.
2. ATTORNEY & CLIENT — FEES FOR COUNSEL FOR INDIGENT PARENT — TERMINATION OF PARENTAL RIGHTS — CASE REMANDED TO TRIAL COURT FOR FEE DETERMINATION. — Since that statute also provides that payment of attorney's fees and costs pursuant to such an appointment is to be awarded from the Juvenile Court Representation Fund, and in the absence of any precedent for an allowance of fees under § 9-27-316 to be made directly by the appellate court, the case was remanded for the trial court to determine the petitioner's entitlement to attorney's fees from the Juvenile Court Representation Fund pursuant to § 9-27-316.

Motion for Attorney's Fees and Costs; remanded.

David Ethredge, for appellant.

Charles MacKey, for appellee.

PER CURIAM. The appellee Arkansas Department of Human Services brought an action to terminate the parental rights of Shary Evans, the mother of A.S., a minor. The trial court entered an order declaring Ms. Evans to be an indigent person and appointing present counsel to represent her. Counsel continued to rep-

resent Ms. Evans throughout an appeal to this Court. We affirmed the chancellor's decision to terminate Ms. Evans' parental rights in an unpublished opinion handed down on January 25, 1995. The appellant's attorney has now petitioned this Court for attorney's fees and expenses.

[1, 2] Ms. Evans' right to counsel in this proceeding is established by Arkansas Code Annotated § 9-27-316(f) (Repl. 1993) which states that a parent or guardian has the right to be represented by appointed counsel, if indigent, during all stages of any proceeding to terminate parental rights or remove custody of a juvenile. That statute also provides that payment of attorney's fees and costs pursuant to such an appointment is to be awarded from the Juvenile Court Representation Fund. In considering a similar motion, the Arkansas Supreme Court remanded for the trial court to determine the petitioner's entitlement to attorney's fees from the Juvenile Court Representation Fund as prescribed by Ark. Code Ann. § 9-27-316. *See In re Termination of Parental Rights*, 301 Ark. 538, 785 S.W.2d 33 (1990). In the absence of any precedent for an allowance of fees under § 9-27-316 to be made directly by this Court, we likewise remand for the trial court to determine the petitioner's entitlement to attorney's fees from the Juvenile Court Representation Fund pursuant to § 9-27-316.