

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA11-136

PATRICK RILEY

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEE

Opinion Delivered JUNE 1, 2011

APPEAL FROM THE
INDEPENDENCE COUNTY
CIRCUIT COURT
[NO. JV-08-96]

HONORABLE LEE WISDOM
HARROD, JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

CLIFF HOOFFMAN, Judge

The Independence County Circuit Court terminated appellant Patrick Riley's parental rights in his two daughters, A.R. and L.R. Riley's appellate counsel has filed a motion to withdraw and a no-merit brief, pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2003), and Arkansas Supreme Court Rule 6-9(i) (2011), stating that there are no meritorious grounds to support an appeal. The clerk of our court mailed a certified copy of counsel's motion and brief to Riley's last known address, informing him of his right to file pro se points for reversal. He has not done so. The Arkansas Department of Human Services (DHS) and the ad litem attorney have chosen not to file a brief. We affirm the termination order and grant counsel's motion to withdraw.

In May 2008, DHS petitioned the circuit court for emergency custody of A.R. and L.R. after receiving a report of parental drug use in the children's presence. The court granted

the emergency petition and held a probable-cause hearing, at which Riley tested positive for methamphetamine, amphetamines, opiates, and benzodiazepines. In June 2008, the children were adjudicated dependent-neglected. The adjudication order established a goal of reunification and directed Riley to, among other things, maintain a safe and stable home environment, obtain stable employment, and refrain from using illegal substances.

The goal of reunification remained intact throughout a year and a half of review orders. In all but one order, the court found that Riley had not complied with the case plan and the court's directives. In February 2010, DHS filed a petition to terminate Riley's parental rights, and a termination hearing was held in July 2010. By that point, the children, ages four and five, had been in DHS custody for over two years.

Evidence at the termination hearing revealed that Riley had been incarcerated on theft-of-property and forgery charges during the case and that he had previously served time for possession of methamphetamine and drug paraphernalia. Additionally, he had no stable housing or employment, nor had he fully addressed his drug issues, admitting to using drugs several months before the hearing. He also failed to visit the children during the case, despite being out of jail periodically and having the opportunity to do so. The children's great-aunt, Dorothy Adcox, testified that she wanted to adopt the children and preferred that they have no contact with Riley. She recounted an incident in which Riley had burst into her home and attacked her husband while he was sleeping. On this proof, the circuit court terminated Riley's parental rights.

After a careful review of the record, we conclude that an appeal from the circuit court's termination decision would be wholly without merit. Riley did not comply with court orders or the case plan and did not remedy the drug issues that caused the children's removal. He also did not accomplish any of the parenting goals set forth by the court during the two-year history of the case. Moreover, it did not appear that he was capable of accomplishing those goals in a time frame consistent with the children's developmental needs. We further agree with counsel that several other adverse rulings at the termination hearing, duly discussed in counsel's brief, present no issues of arguable merit for appeal.

One adverse ruling that counsel did not discuss was the court's decision to terminate Riley's parental rights rather than grant his request to award permanent custody of the children to Dorothy Adcox. Though not briefed, this ruling clearly is not a meritorious ground for appeal. *See Beeson v. Ark. Dep't of Human Servs.*, 2011 Ark. App. 317, 378 S.W.3d 911. Ms. Adcox expressed an unequivocal preference for adoption, and Riley had virtually no relationship with his children, such that a less-restrictive alternative would work to his benefit.

Affirmed; motion to withdraw granted.

GLOVER and ABRAMSON, JJ., agree.