

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA 12-248

JOSIE PAYNE

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES and MINOR
CHILD

APPELLEES

Opinion Delivered SEPTEMBER 19, 2012

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT,
[NO. JV-11-188-3]

HONORABLE EDWIN KEATON,
JUDGE

AFFIRMED

JOHN B. ROBBINS, Judge

Appellant Josie Payne filed a notice of appeal from the adjudication order entered by the Union County Circuit Court on January 5, 2012. She concedes that the evidence was sufficient to sustain a finding that the child at issue here, A.S., was dependent-neglected as defined under the Juvenile Code. She contends instead that the trial court’s “finding of aggravated circumstances and the disposition of immediate termination” requires “partial reversal.” We affirm.

To explain further, counsel for the Department of Human Services (DHS) and the child correctly state that appellant’s notice of appeal specifies that she seeks appellate review of only the order adjudicating A.S. a dependent-neglected child.¹ An adjudication is a final,

¹In the notice of appeal’s pre-printed form, under the query of what specific hearing and resulting order appellant was appealing, the only box marked was adjudication, not disposition. Notably, a disposition order is a final, appealable order only if it is accompanied by sufficient findings of fact by the trial court as required by Ark. R. Civ. P.



appealable order pursuant to Ark. Sup. Ct. R. 6-9 (a)(1)(A) (2011). Her attorney announced at the conclusion of the adjudication hearing that appellant intended to appeal the adjudication. She concedes in her appellate brief, however, that the adjudication was appropriate based on the evidence before the trial court—that being the manner of A.S.’s sibling’s death while in appellant’s care. We agree. We affirm the adjudication.

Appellant asserts in her brief that she is nonetheless entitled to a “partial reversal” of this order due to the trial court erroneously “fast tracking” toward termination of her rights and neglecting to provide her reunification services. We disagree. As appellant points out, the trial court did not find that there was clear and convincing evidence that appellant was the one who physically abused A.S.’s sibling, which resulted in the child’s death. Indeed, the order on appeal does not make a finding of “aggravated circumstances” on that or any other basis. Nowhere in the abstract of the lengthy adjudication hearing is there a request by DHS to be relieved from providing reunification services on that basis. The order does not specifically relieve DHS from providing services to appellant. In fact, the adjudication order recites that DHS is to provide appellant supervised visitation with A.S. and is to provide “any and all services necessary for the health and safety of [A.S.]”

It appears that appellant’s primary concern is that the adjudication order set the goal as termination of appellant’s parental rights and set a termination-of-parental-rights hearing for February 16, 2012. The record brought up on appeal, ordered by appellant’s attorney, is

54(b) demonstrating that there is no just reason to delay an appeal of the disposition. Ark. Sup. Ct. R. 6-9(a)(1)(B) (2011).



limited to the discussions concerning adjudication of A.S. as a dependent-neglected child. At the conclusion of the adjudication hearing where the trial judge asked if there were any questions prior to moving toward disposition, there were none, and the transcription ends. There is no discussion at all regarding the setting of a termination hearing. No docket sheets appear in the appellate record. Based upon the order appealed and the arguments preserved for review, we affirm. See *Harwell-Williams v. Ark. Dep't of Human Servs.*, 368 Ark. 183, 243 S.W.3d 898 (2006); *McGaughey v. Ark. Dep't of Human Servs.*, 2011 Ark. App. 536. To the extent that appellant desired to appeal any disposition matters, those would only be appealable by her designation of that order as the one appealed and by her acquisition of appropriate Ark. R. Civ. P. 54(b) findings to render it a final order for purposes of appeal. See *Gregory v. Ark. Dep't of Human Servs.*, 2012 Ark. App. 364.

The adjudication order from which this appeal was taken is affirmed.

PITTMAN and GLADWIN, JJ., agree.

Leah Lanford, Arkansas Public Defender Commission, for appellant.

Tabitha B. McNulty, Office of Chief Counsel, for appellee.

Chrestman Group, PLLC, by: *Keith L. Chrestman*, attorney ad litem for minor child.