

ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-12-828

JOSIE PAYNE

APPELLANT

V.

ARKANSAS DEPARTMENT OF HUMAN
SERVICES and MINOR CHILD

APPELLEES

Opinion Delivered December 4, 2013

APPEAL FROM THE UNION COUNTY
CIRCUIT COURT
[No. JV2011-188]

HONORABLE EDWIN KEATON,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

LARRY D. VAUGHT, Judge

This is the second appeal arising from the order of the Union County Circuit Court terminating appellant Josie Payne’s parental rights to her daughter, A.S. (born 5/28/2000), after the non-accidental death of Payne’s other daughter, C.S.¹ In *Payne v. Arkansas Department of Human Services*, 2013 Ark. 284, our supreme court remanded the case and ordered that a supplemental record be filed to include Payne’s testimony and anything else that was relevant to the termination hearing and the final order of the circuit court.² Payne’s attorney has complied

¹The court also terminated Payne’s parental rights to two other children—twin boys—who were born after the death of C.S. and after A.S. had been removed from Payne’s custody. Although the matters were tried together at the same hearing, the twins’ case was a separate case from A.S.’s with a separate case number, and Payne had separate counsel representing her in that case. No notice of appeal was filed from the order terminating Payne’s parental rights to the twins and, thus, Payne’s rights to those children are not at issue in this appeal. Payne also has an older child, A.S.1, who is not the subject of the termination proceedings and is in the custody of his grandmother.

²Our supreme court has provided a detailed account of the facts associated with this case in *Payne v. Arkansas Department of Human Services*, 2013 Ark. 284.

with the mandate and has once again filed a no-merit brief and a motion to withdraw as counsel. On appeal, counsel contends that there are no meritorious issues that could arguably support an appeal.

In compliance with *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Rule 6-9(i) (2013) of the Rules of the Arkansas Supreme Court and Court of Appeals, Payne’s counsel has examined the entire supplemented record for adverse rulings. Counsel has listed the adverse rulings in this case—the trial court’s decision to terminate Payne’s parental rights and thirteen adverse evidentiary rulings—and has adequately discussed why there is no arguable merit to an appeal on any of the identified adverse rulings. Payne was provided a copy of her counsel’s brief and motion, and she exercised her right to file pro se points on appeal. Neither the Arkansas Department of Human Services nor the attorney ad litem filed a responsive brief.

After carefully examining the pro se points filed by Payne, the supplemented record, and the no-merit brief, we hold that Payne’s counsel has complied with the requirements for no-merit, parental-termination appeals and that the appeal is wholly without merit. Accordingly, by memorandum opinion, we affirm the termination of Payne’s parental rights to C.S. *In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985); Ark. Sup. Ct. R. 5-2(e) (2013). We also grant counsel’s motion to withdraw from representation of Payne.

Affirmed; motion to withdraw granted.

WHITEAKER and BROWN, JJ., agree.

Deborah R. Sallings, Arkansas Public Defender Commission, for appellant.

No response.