

ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-14-1112

KERI ZACHARY

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEE

Opinion Delivered April 22, 2015

APPEAL FROM THE CONWAY
COUNTY CIRCUIT COURT
[NO. JV-2013-66]

HONORABLE TERRY SULLIVAN,
JUDGE

AFFIRMED; MOTION TO
WITHDRAW GRANTED

M. MICHAEL KINARD, Judge

This is an appeal from an order terminating the parental rights of appellant, Keri Zachary, to her seventeen-month-old daughter, J.Z. Appellant's attorney has filed a motion to be relieved as counsel and a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Arkansas Supreme Court Rule 6-9(i), asserting that there are no issues of arguable merit to support the appeal. Counsel's brief contains an abstract and addendum of the proceedings below, details the adverse rulings made at the termination hearing, and explains why there is no meritorious ground for reversal. The clerk of this court sent copies of the brief and motion to be relieved to appellant, informing her that she had the right to file pro se points for reversal under Rule 6-9(i)(3). Appellant did not file a statement of points.

The record shows that J.Z. was removed from her parents' custody after she was taken to Arkansas Children's Hospital with life-threatening pulmonary contusions and symptoms of suffocation inflicted by her father, William Zachary. J.Z. was then less than five months old. William and appellant initially lied to doctors and Arkansas Department of Human Services (DHS) personnel regarding the cause of the child's injuries. Even after William admitted that he had struck the child, hard, several times on the back because she was crying, appellant stayed with him, continued to defend him, and continued to deny that he had intentionally harmed the child.¹ Over the next several months, services were offered by DHS, and appellant partially complied with the case plan. Proof was also presented that appellant eventually divorced William, after the petition for termination was filed. However, she failed to maintain stable housing and employment. She also moved in with a new boyfriend. Neither had jobs or a place of their own to live, living instead with his relatives. As late as the termination hearing, appellant continued to deny knowing how J.Z. had been injured, and she made statements that could be interpreted as admissions that she divorced William only because doing so might help her case. DHS caseworkers testified that J.Z. was very adoptable and that they believed that she would be subject to potential harm should she be returned to appellant. They also testified that appellant did not seem bonded to the child and

¹ In November 2013, J.Z. was adjudicated dependent-neglected based upon findings by clear and convincing evidence of parental unfitness and that she had been subjected to aggravated circumstances in the form of severe physical abuse. No appeal was taken from that order. Therefore, it became final, and the aggravated-circumstances determination is not now before us. See *Hannah v. Arkansas Department of Human Services*, 2013 Ark. App. 502; *Dowdy v. Arkansas Department of Human Services*, 2009 Ark. App. 180, 314 S.W.3d 722.

that she was unable to comfort and console the child. Appellant admitted that she was in no position to have the child returned to her.

Based on our review of the record and the brief presented to us, we conclude that counsel has sufficiently complied with the requirements set by the Arkansas Supreme Court for no-merit petitions in termination cases, and we hold that the appeal is wholly without merit. Therefore, we grant counsel's motion to withdraw and affirm the order terminating appellant's parental rights.

Affirmed; motion to withdraw granted.

GLOVER and HIXSON, JJ., agree.

Leah Lanford, Arkansas Public Defender Commission, Dependency-Neglect Appellate Division, for appellant.

No response.