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ARKANSAS COURT OF APPEALS

DIVISION IV
No. CV-17-905

Opinion Delivered: April 4, 2018

LEA CANDACE BRADLEY APPELLANT V. ARKANSAS DEPARMENT OF HUMAN SERVICES AND MINOR CHILD APPELLEES	APPEAL FROM THE CARROLL COUNTY CIRCUIT COURT, EASTERN DISTRICT [NO. 08EJV-16-22] HONORABLE SCOTT JACKSON, JUDGE AFFIRMED; MOTION TO WITHDRAW GRANTED

DAVID M. GLOVER, Judge

Lea Bradley appeals from the termination of her parental rights to H.P., who was born on May 19, 2010. Her counsel has filed a motion to withdraw and brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Rule 6-9(i)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, asserting there are no meritorious grounds to support an appeal in this case. The clerk of our court mailed a copy of counsel's motion and brief to Bradley informing her of her right to file pro se points for reversal. Bradley filed her pro se points, and the Arkansas Department of Human Services (DHS) has filed a responsive brief. We affirm the trial court's termination of Bradley's parental rights and grant counsel's motion to withdraw.

We review the termination of parental rights de novo. *Hall v. Arkansas Dep't of Human Servs.*, 2018 Ark. App. 4. An order terminating parental rights must be based on a finding by clear and convincing evidence that the sought-after termination is in the

children's best interest. *Id.* The trial court must consider the likelihood that the children will be adopted if the parent's rights are terminated and the potential harm that could be caused if the children were returned to a parent. *Id.* The trial court must also find that one of the grounds stated in the termination statute is satisfied. *Id.* Clear and convincing evidence is that degree of proof that will produce in the fact-finder a firm conviction that the allegation has been established. *Id.* When the burden of proving a disputed fact is by clear and convincing evidence, we ask whether the trial court's finding on the disputed fact is clearly erroneous. *Id.* A finding is clearly erroneous when, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *Id.*

Here, the trial court terminated Bradley's parental rights, finding DHS had proved the statutory grounds of "failure to remedy" and "aggravated circumstances" and further finding it was in H.P.'s best interest to do so. Our review of the record confirms counsel's assertion that there was only one adverse ruling in this case, which was the termination itself. We find no clear error.

H.P. was removed from Bradley's custody on May 9, 2016, just before his sixth birthday. The removal was based on a call to the child-abuse hotline alleging severe abuse to H.P. by Bradley's boyfriend and in Bradley's presence. The abuse included binding H.P. with duct tape and golf clubs. Bradley and H.P. were living in a camper at the time, and Bradley was suspected of abusing drugs. Probable cause for the removal was subsequently found. Bradley was ordered to undergo substance-abuse and psychological evaluations, submit to random drug testing, attend individual counseling and parenting classes, and attend scheduled visits with H.P.

H.P. was subsequently adjudicated dependent-neglected by order entered July 8, 2016. In addition to the probable-cause finding, the trial court further found Bradley continued to allow the boyfriend in her life and lacked stable housing. The first review hearing showed partial compliance with the case plan, but the subsequent review hearing found no compliance with either the case plan or the court's orders, and Bradley was ordered to allow DHS to observe the collection of her urine specimen. The goal of the case was changed to adoption in the permanency-planning order entered on April 6, 2017.

On June 13, 2017, DHS filed a petition to terminate Bradley's parental rights, and the termination hearing was held on July 27, 2017. DHS presented one witness, Clay Reynolds, the caseworker assigned to the family. Reynolds explained that H.P. had been removed from Bradley's custody because of environmental conditions (she was living in a camper) and because she was on drugs and failed to protect H.P. from severe abuse by her boyfriend. Reynolds said DHS offered Bradley several services, including parenting classes, supervised visitation, drug assessments, substance-abuse treatment and counseling, drug screens, group therapy, a psychological evaluation and its recommendations, individual counseling, and domestic-violence counseling. He said referrals were made for housing and education services, and recommendations were made for employment and vocational-skills services.

Reynolds testified Bradley completed her drug-and-alcohol assessment and her psychological evaluation but failed to follow the recommendations of both. He reported that Bradley said she had completed sixteen hours of parenting classes, but he also noted she did not put those lessons to use because DHS had to interrupt visits with H.P. and redirect her parenting efforts. He testified that she visited with H.P. at first but stopped when she

was incarcerated for two months in 2016 on charges that he believed included drugs, possession of a firearm, and robbery or burglary. He further testified that her visits with H.P. after her release were curtailed because she could not pass a drug screen.

He explained that DHS attempted fourteen drug screens with Bradley, but she did not appear for or comply with ten of those fourteen screens. He said that of the ones she completed, two were positive for marijuana; one was positive for amphetamines, methamphetamine, benzodiazepines, and MDMA (ecstasy); and the fourth test was negative. He cautioned, however, that the negative test was questionable because no one observed Bradley giving the urine sample. Reynolds also testified that Bradley did not have an appropriate home for H.P. and that the causes for removal had not been remedied.

With respect to H.P.'s best interest, Reynolds expressed his opinion that termination was in H.P.'s best interest, explaining that a possible adoptive home had been identified for him and that he was at substantial risk of harm if returned to Bradley because she was extremely unstable. He further explained that Bradley did not keep appointments, failed to keep in touch with DHS, failed to work the case plan, and continued to abuse drugs. He also expressed his opinion that further services would not facilitate reunification because of Bradley's history of not cooperating. He noted she was living in the same camper she lived in when H.P. was removed, and she acknowledged it was not appropriate housing.

Bradley testified and acknowledged she was still living in the camper; said she had only recently entered a drug-treatment facility; stated she had talked with mental-health providers at the facility; and explained she had started some medication. She said the past three years had been the roughest of her life, and her relationship with the man who abused H.P. was tumultuous. She expressed the desire for more time to prove herself.

Although the trial court found that DHS had proved two statutory grounds for termination, proof of only one statutory ground will support a termination. *Hall*, *supra*. Concluding there was no clear error in the trial court's "failure to remedy" finding, we focus only on it as the statutory ground supporting termination. In accordance with Arkansas Code Annotated section 9-27-341(b)(3)(B)(i)*(a)* (Supp. 2017), the "failure to remedy" ground is satisfied by a trial court's finding, supported by clear and convincing evidence, that the juvenile who has been adjudicated dependent-neglected and has continued out of the parent's custody for twelve months, and despite a meaningful effort by the department to rehabilitate the parent and correct the conditions that caused removal, those conditions have not been remedied by the parent.

H.P. was removed on May 9, 2016. The petition to terminate was filed on June 13, 2017. H.P. had been adjudicated dependent-neglected, he had been out of Bradley's custody for more than twelve months, DHS had made meaningful efforts to rehabilitate Bradley and remedy the issues causing removal, and Bradley clearly had not remedied at least two of the reasons for removal—drug abuse and unstable housing. In addition, the trial court did not clearly err in finding that it was in H.P.'s best interest for Bradley's rights to be terminated. Reynolds testified an adoption was likely, and there was clear potential for harm if H.P. were returned to Bradley because she had not remedied her housing situation and she continued to abuse drugs until shortly before the hearing.

In an abundance of caution, counsel notes that during Bradley's testimony at the termination hearing, Bradley expressed a desire for more time to prove her sobriety. We appreciate counsel's diligence but do not regard the fact that Bradley did not receive more time as an adverse ruling separate from the termination of her parental rights. Rather, it

was part and parcel of the termination decision, and as previously discussed, we are not left with a definite and firm conviction that the trial court made a mistake in its findings.

The only remaining issues are the pro se points raised by Bradley. Not only were the points not raised below, preventing our review on appeal, but she was also late in filing her points. Bradley sought and received a seven-day extension, so she clearly knew timely filing was important, yet she did not tender her pro se points within the time limits. Consequently, her points are not properly before us for review, and we do not address them.

Our review of both the record and counsel's brief convinces us that an appeal of the trial court's termination of Bradley's parental rights would be wholly without merit and that counsel has complied with the requirements of *Linker-Flores* and Rule 6-9 and sufficiently addressed the only adverse ruling, which was the termination. We therefore affirm the trial court's order terminating Bradley's parental rights and grant counsel's motion to withdraw.

Affirmed; motion to withdraw granted.

KLAPPENBACH and HIXSON, JJ., agree.

Leah Lanford, Arkansas Public Defender Commission, for appellant.

Callie E. Corbyn, Office of Chief Counsel, for appellee.

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