

ARKANSAS COURT OF APPEALS

DIVISION I

No. CA09-858

NATASHA BLAKES

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES and
MINOR CHILD

APPELLEES

Opinion Delivered 3 FEBRUARY 2010

APPEAL FROM THE CRITTENDEN
COUNTY CIRCUIT COURT
[NO. JV 2006-123]

THE HONORABLE RALPH
WILSON, JR., JUDGE

MOTION DENIED; REBRIEFING
ORDERED

D. P. MARSHALL JR., Judge

The circuit court terminated Natasha Blakes's parental rights to J.B., her young daughter. J.B. was born to a fifteen-year-old Blakes, then in the custody of the Division of Youth Services. Blakes remained in foster care until she reached age eighteen. Her lawyer has moved to withdraw and has filed a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004) and Supreme Court and Court of Appeals Rule 6-9(i), asserting that there are no issues of arguable merit that would support an appeal. As required by Rule 6-9, the Clerk of the Supreme Court mailed Blakes a copy of the motion and no-merit brief, along with notice that she could file points arguing the merits. The green card was

returned. Despite the package having been sent restricted delivery, the card appears to be signed by someone other than Blakes. She filed no *pro se* points for reversal. Her lawyer's brief addresses two adverse rulings from the termination hearing and the ultimate termination decision but omits two other adverse rulings.

At the termination hearing, the circuit court sustained the attorney ad litem's objection to Blakes's counsel's cross-examination of the case worker about her experience handling foster children with aggressive behavior. During Blakes's case-in-chief, her attorney informed the court that, although she had subpoenaed two "fairly important" witnesses to testify about Blakes's progress, they were not present. These witnesses had appeared earlier in the day, but left before Blakes's case was called late in the afternoon. The court decided to finish the hearing that day without those witnesses.

We may affirm a termination-of-parental-rights case despite unaddressed adverse rulings in the no-merit brief, *e.g.*, *Sartin v. State*, 2010 Ark. 16, 362 S.W.3d 877, but only when the omitted adverse rulings are clearly without merit. *Ibid.* The court's decision to go forward without Blakes's witnesses cannot be categorized as "clearly not meritorious." *Sartin*, 2010 Ark. 16, at 4–5, 362 S.W.3d at 880. Blakes's lawyer must address that ruling. Her lawyer should also brief the court's limitation on Blakes's cross-examination. This ruling is probably not a meritorious ground for appeal, but

Cite as 2010 Ark. App. 108

we read *Sartin* as applying to cases where only all unaddressed adverse rulings are clearly unmeritorious. In keeping with the spirit of Rule 6-9(i) and *Sartin*, prudence favors rebriefing of all known deficiencies. Counsel should turn square corners in these cases. *E.g.*, *Elkins v. State*, 2009 Ark. App. 536, at 2, 336 S.W.3d 883, 883.

Motion denied; rebriefing ordered.

GLADWIN AND BAKER, JJ., agree.