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ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-23-11

KATTIE LONG AND JAMES LONG
APPELLANTS

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES AND MINOR
CHILDREN

APPELLEES

Opinion Delivered September 6, 2023

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. 26]V-21-120]

HONORABLE LYNN WILLIAMS,
JUDGE

AFFIRMED

KENNETH S. HIXSON, Judge

Appellants James Long and Kattie Long (collectively appellants) separately appeal after the Garland County Circuit Court filed an order terminating their parental rights to their two children, Minor Child 1 (MC1) (DOB 03-09-18) and Minor Child 2 (MC2) (DOB 10-23-20). Both parents allege that the circuit court erred in finding that statutory grounds existed to support the termination. James additionally alleges that the circuit court erred in finding that termination was in the children's best interest. We affirm.

I. *Relevant Facts*

On May 17, 2021, the Arkansas Department of Human Services (DHS) filed a petition for emergency custody and dependency-neglect of MC1 and MC2. In the affidavit attached to the petition, a family-service worker (FSW) averred that DHS became involved

with appellants on October 24, 2020, when MC2 tested positive for THC at birth. The children remained in the home after the parents agreed to cooperate with DHS and while DHS offered services to the family, including random home visits, drug screens, a drug assessment, and being placed in the home. On March 30, 2021, James appeared to be “under an altered state of mind” and refused to take a drug screen. He had previously admitted methamphetamine use. The affidavit noted that SafeCare Arkansas provided parenting classes and attempted to work with the family on home safety and the environmental issues in the home. However, the family became uncooperative and did not complete the program. At a home visit on May 13, 2021, both parents refused to take a drug screen, and Kattie became irate, cursed, and threw things in the home. She had James lock the children in a room and threatened to have James “come after” the workers. The workers left at that time but returned the same day with law enforcement. One FSW determined that the home was environmentally unsafe because there was trash on the floor and cockroaches on the walls. Old moldy food was within reach of the children. DHS exercised a seventy-two-hour hold to ensure both children’s safety. At a medical checkup later that day, head lice and bed bugs were found on the children.

The circuit court granted the petition for emergency custody on May 17, 2021, finding probable cause to believe that the children were dependent-neglected and that it was contrary to the welfare of the children to remain in the parent’s custody. The circuit court appointed an attorney ad litem to represent the children and separate attorneys to represent the parents. After a continuance, an agreed probable-cause order was filed on June 8, 2021.

The court found that probable cause existed and continued to exist requiring that the children remain in the custody of DHS.

An agreed adjudication order was subsequently filed on July 28, 2021. The parties stipulated—and the circuit court found—the children dependent-neglected. The circuit court found that the allegations in the petition were true and correct and that the children were at substantial risk of serious harm from neglect and parental unfitness. The circuit court further found that the children “were living in a home that was environmentally unsafe, and the [children] both had head lice and bed bugs that had to be treated with prescription medication. Both parents have a history of substance abuse.” The court ordered that the children remain in the custody of DHS, and the goal of the case was set as reunification with a concurrent goal of relative placement. The parents were ordered to do the following: complete a drug-and-alcohol assessment and follow any recommendations; participate in individual therapy; submit to a psychological evaluation and follow any recommendations; submit to random drug and alcohol screens; attend visitation; complete parenting classes; attend all appointments; obtain and maintain a safe, suitable, and appropriate home that is free from illegal substances and other health and safety hazards; obtain and maintain adequate income; request transportation assistance forty-eight hours in advance; cooperate with DHS and CASA; allow DHS and CASA to inspect the home; participate in any service requested by DHS; maintain consistent contact with their children; demonstrate stability and the ability to provide for their children’s needs; maintain consistent contact with DHS;

and keep DHS informed of their current address. Appellants did not appeal from this order or its findings.

A review hearing was held on November 17, 2021, and a review order was filed on November 23, 2021. The circuit court found that the parents had only minimally complied with the case plan and continued the same goals. It further found that James had not submitted to a drug screen since at least December 5, 2020, and that the home was still “unfit and not safe” for the children. It found that DHS had made reasonable efforts to provide the family with services and to finalize a permanency plan for the children. Specifically, the circuit court found that DHS had provided, referred, or otherwise offered the following services:

psychological evaluation, individual therapy, drug/alcohol assessment, outpatient drug treatment, random drug screens, home visits, therapeutic foster care placement, transportation, visitation, parenting education, casework services, and worker visits. The Department has also provided, as required, information from the Children’s Reporting and Information System, including as to contacts, placements, investigations, home studies, and comprehensive health evaluations that have been entered or received since the last hearing.

A second review hearing was held on March 16, 2022, and a review order was filed on March 25, 2022. The circuit court found that the situation had not changed from the last hearing; that the parents had only minimally complied with the case plan; that James still had not submitted to a drug screen since at least December 5, 2020; that the parents had only minimal contact with the children; and that the parents had been discharged from therapy for their inability or unwillingness to cooperate or work with the therapist. As in the last review order, the circuit court found that DHS had made reasonable efforts to

provide the family with services and to finalize a permanency plan for the children, listing the same services provided, referred, or offered as in the previous review order.

On May 18, 2022, the circuit court held a permanency-planning hearing, and a permanency-planning order was filed on May 27, 2022. The circuit court changed the goal to adoption because of the parents' noncompliance in the case. Specifically, the circuit court found that the parents' visitation was inconsistent, that they failed to complete their psychological evaluation, and that they had only made minimal progress to improve the conditions of their home. Additionally, the circuit court found DHS had made reasonable efforts in the case and that DHS specifically "provided, referred, or otherwise offered psychological evaluation, individual and family therapy, drug/alcohol assessment, drug treatment, random drug screens, home visits, foster care placement, family provisional foster care placement, transportation, visitation, parenting education, casework services, assistance with subsidized housing, and worker visits." The circuit court further ordered the parents to comply with the same orders from the previous hearings.

DHS filed a petition for the termination of parental rights on June 9, 2022, alleging several grounds for termination against appellants under Arkansas Code Annotated section 9-27-341(b)(3)(B) (Supp. 2023), including the failure-to-remedy, failure-to-provide-material-support, and failure-to-maintain-meaningful-contact grounds. A termination hearing began on September 21, 2022, and concluded on September 30, 2022.

At the termination hearing, James Long testified that he had done everything DHS had asked him to do. He admitted that he had not completed rehabilitation but claimed

that he had attempted to call but received no response. He testified that he and Kattie attended nine out of twelve of the most recent visits with the children and missed only if the children were sick or on vacation with the foster parents. He stated that he does not believe he has an issue with drug abuse and does not need to attend rehabilitation. He admitted that he was told that he failed his most recent hair-follicle test. He explained that he had used marijuana and the last time he used methamphetamine was two or three months before the termination hearing. Although James testified that he did not think he needs drug rehabilitation, he testified that he would attend if it would help him “get the kids back.”

James testified about an incident when Kattie became upset after being told that she could not accompany him to his recent hair-follicle test. He denied that Kattie was out of control but instead stated that she “does get agitated just like I do.” Regarding improvements made to the home, James testified that he had fixed the children’s bedroom approximately a month before the hearing and claimed that the house was clean. He admitted that he was unemployed but stated that he is on disability. Several pictures taken during the parents’ visitation with their children and of the home were admitted into evidence.

Joshua Jester, the chief of police for the Mountain Pine Police Department, testified that he responded to a call to the family’s home approximately a week before the termination hearing. Chief Jester explained that Kattie, James, and a DHS worker were present. Kattie was upset and stated that DHS was kidnapping James. Chief Jester testified that Kattie was yelling and “screaming at the top of her lungs.” James told him that he was going with DHS because he wanted to go for his hair-follicle test and that he was not being abducted. Kattie

would not calm down; however, after James went with the DHS worker, Chief Jester left the scene.

Mariah Brown testified that she provided individual counseling to James and Kattie starting in August 2021. She explained that the parents completed twelve sessions but did not complete their therapy goals. Ms. Brown testified that she was “working on anger management, compliance with the home, [and] making sure that DHS’s needs were met” with Kattie. With James, Ms. Brown was “working on sobriety because [James] was having issues with his drug screens and transportation and making sure that he did all of them.” Ms. Brown noticed that the parents failed to comply with some of their goals, and she stated that the last session “got quite heated” after she confronted them. The parents claimed that they went to rehabilitation but had no documentation to support their claims. As a result, counseling was discontinued in January 2022.

Dr. George DeRoeck testified that he completed both parents’ psychological evaluations on June 20, 2022. He stated that he had concerns about the fact that Kattie was on an antidepressant medication for tension and anxiety and utilizing medical marijuana in addition to that medication. Dr. DeRoeck believed Kattie’s symptoms indicated an adjustment disorder. He was concerned that there was a possibility Kattie had substance-abuse issues due to psychological addiction and thought she would benefit from some outpatient treatment. Additionally, Dr. DeRoeck thought Kattie had relationship issues with James and recommended intensive family services. Regarding James, Dr. DeRoeck was concerned about James’s probable relapse given his history of stimulant drug use, refusal to

provide drug screens, and behaviors. He also expressed his concerns regarding James's volatile relationship with Kattie and noted that he diagnosed James with schizotypal traits. Dr. DeRoeck had similar recommendations regarding James as he did for Kattie, including reflective listening and empathy training. He explained that his recommendations would assist a mental-health counselor or mental-healthcare provider to develop an appropriate treatment program.

Brock Baker, the DHS supervisor for the case, testified about the case history as already outlined herein. He explained that visitation had been sporadic at best in the beginning of the case and that, even though visitation had improved in the past months, the parents had not consistently visited the children during the pendency of this case. Mr. Baker opined that the parents had not "made sustained, measurable progress towards [the] goals of this case[.]" He stated that the parents had two different therapists during the pendency of the case. The parents were first discharged from the unsuccessful therapy provided by Ms. Brown in January 2022. The parents were referred to a different therapist in February 2022, but the parents were discharged for a second time in March 2022. Thereafter, the parents only recently completed their psychological evaluations on June 20, 2022, and their substance-abuse assessments on August 8, 2022, because the parents had canceled multiple appointments. He explained that neither parent followed the recommendations of their psychological assessments even though he had provided a highlighted copy of Dr. DeRoeck's recommendations and information for a walk-in clinic to the parents. Mr. Baker stated that it was recommended in James's substance-abuse assessment that James attend residential

drug treatment; however, James failed to do so. Mr. Baker went on to explain that treatment could not be recommended for Kattie in her assessment “because she stated that due to not having transportation and [a] medical condition she would not be able to attend outpatient classes or in-patient successfully.”

Mr. Baker testified that the last time he was in the home was in July 2022. He described the home as having unsanitary and unsafe conditions. He did not feel that the home was safe for children of their ages. Mr. Baker explained that at that time, there was a lot of debris and trash outside the home, roach droppings and “bug webs” in the kitchen, a large hole in the wall with exposed wires in the children’s room, and clutter and unsafe conditions in the parents’ bedroom. He stated that he discussed his concerns with the parents. He said he did not make any referrals for pest control because the “family has not ever been open to those kinds of services.” Pictures that Mr. Baker took from that visit were admitted into evidence without objection. Mr. Baker admitted that the more recent pictures offered by the parents at the hearing showed some improvement in the children’s room, but Mr. Baker explained that the pictures did not show whether his concerns were addressed in the other rooms. Mr. Baker opined that the children are adoptable and stated that the current foster parents were interested in adopting the children. He further opined that termination was in the children’s best interest as a result of the environmental conditions and safety concerns of the home; parental drug issues, including James’s recent positive hair-follicle test; Kattie’s mental state; lack of parental stability; and the parents’ lack of effort to change any of those conditions.

Ms. Brown was recalled as a witness, and she testified that she had discussed Kattie's disability during one of their therapy sessions. Ms. Brown provided telephone sessions with Kattie and later went to Kattie's home for therapy sessions after the telephone sessions became unproductive and Kattie was still not meeting her goals. Ms. Brown stated that she discussed the need to make the children's room suitable, but Kattie had provided "a thousand excuses why [she and James could not] get it done." The last time Ms. Brown was in the home was on November 6, 2021.

Kattie testified that she felt that "nothing made [Ms. Brown] happy" and that Ms. Brown "always" made additional goals "every time she left." Kattie admitted that she had been discharged from therapy, but she stated that she had requested a different therapist and had reached out to the walk-in clinic, Ouachita Behavioral Health. After her requests, she claimed that she did not hear anything from either Ouachita Behavioral Health or her caseworker at DHS. She later explained that her primary-care physician made a referral to Ouachita Behavioral Health, but she explained that she had transportation issues. She admitted that she never asked DHS for assistance with transportation but also stated that DHS had not voluntarily offered to provide her transportation. She explained that she was "too scared to ask."

Kattie believed the visits with her children went well and that DHS was the one to cut the visits short. Kattie admitted that she and James still had issues with insects in their home, but she stated that they were "trying to get rid of them." Kattie testified that they had asked DHS for help but were told that the caseworker would "have to check." She explained

that no assistance was given. Other than the issue with insects, Kattie felt the home is appropriate. Kattie admitted she would need help in caring for the children. While she had some concerns about James's hair-follicle test that was positive for methamphetamine, she doubted the accuracy of the test and stated that she thought he was "set up."

Kattie explained why she became upset when DHS came to take James to the appointment for his hair-follicle test. She explained that she had planned on going with James, but she said that she was then told that she could not go with him due to an issue with finding room for her wheelchair in the DHS worker's vehicle. Kattie blamed DHS for her missed appointments for her assessments and stated that she had difficulty communicating with DHS. Kattie asked the court to not terminate her parental rights and expressed her desire for more time to achieve reunification. She stated that she needed DHS to answer the phone and give her the information she needed to complete services. She further stated that she would be able to care for herself and address any health issues if James went to a thirty-day inpatient rehabilitation program.

On cross-examination, Kattie stated that she thought the last time James had used methamphetamine was a year before the termination hearing and had no knowledge of any recent use. She further stated that she did not think he needs inpatient rehabilitation but would leave the decision up to him. When asked why she called law enforcement and reported that James was "being abducted" when the DHS worker came to take James for his hair-follicle test, Kattie said that she felt she was being discriminated against because she is in a wheelchair and because she felt DHS was "obstructing - abusing [James's] constitutional

rights.” Kattie admitted that she still has “mental health issues” necessitating counseling and said that she is working on getting therapy at a walk-in clinic but lacks transportation. She explained that the family vehicle would soon be returned and that they would have insurance the following week. She further admitted that even though DHS had provided transportation for every visitation she had with the children, she did not ask DHS for transportation to the clinic because she was “too scared” that she would not “hear anything back” if she had asked. When asked whether there was any service that she requested from DHS that was not provided to her, Kattie responded that she told DHS she “needed a two-seater stroller, a highchair and a playpen.” Kattie believed that the children could be returned to her custody and that she could ensure their safety. She thought she was “a good parent” and loves her children.

Seth Draper, the primary DHS caseworker since March 2021, testified that he had recently been on leave since September 7, 2022. He explained that there had been communication issues with Kattie, especially in the beginning of the case. He said that she would yell, and their discussions were not productive. However, in time, he thought they had “figured out a good rhythm of how to communicate.” He stated he tried to respond to messages from Kattie about issues in the case “as quickly as [he] could.” Mr. Draper explained that he communicated dates for assessments in person, in text, and through email. He had last been to the home on August 12, 2022, and he did not believe the home was appropriate at that time. He explained that there were issues with roaches crawling along the walls of the children’s bedroom, a hole in the children’s bedroom, and electrical issues.

He had provided roach treatments and discussed the potential for DHS to approve an exterminator to assist. However, Mr. Draper admitted that the issue of an exterminator was “inconclusive” on his end. Mr. Draper testified that DHS ran out of available service providers after Kattie had been discharged from the previously provided therapy, which is why Kattie was told to visit a walk-in clinic. Mr. Draper further testified that he had made it clear to both parents that transportation was available for any service throughout the case. He stated that he had, in fact, personally transported the parents to visitations, court hearings, and other appointments. He reiterated that the parents missed three scheduled drug-and-alcohol assessments before finally completing it on August 8, 2022. Despite the parents’ claims that they did not know about the appointments, Mr. Draper stated that he did tell them about those appointments. He believed that he had “done everything reasonably possible” in his power to help the parents.

After being recalled as a witness, James acknowledged the recent recommendation that he complete inpatient substance-abuse treatment and stated that he was willing to attend treatment. However, he stated that it would be a hardship for him to leave Kattie and that he would rather attend outpatient treatment instead.

At the conclusion of the termination hearing, the circuit court orally ruled from the bench that it was granting DHS’s petition for termination of parental rights. The circuit court filed a written order terminating appellants’ parental rights on October 6, 2022. The circuit court specifically found by clear and convincing evidence that the failure-to-remedy ground alleged in the petition supported termination and that it is in the best interest of the

children to terminate appellants' parental rights. In relevant part, the circuit court made the following specific findings:

5. The court entered into evidence the psychological evaluation of Kattie Long (Petitioner's Exhibit 1), the psychological evaluation of James Long, Jr. (Petitioner's Exhibit 2), the Department's court report (Petitioner's Exhibit 3), 11 photos of the parents' residence taken by Brock Baker in July 2022 (Petitioner's Exhibit 4), 6 photos taken during visitation with the juveniles (Defendant Father's Exhibit 1), and 5 photos of the parents' residence taken by the parents in September 2022 (Defendant Father's Exhibit 2).

6. The Court received testimony from, Joshua Jester (Mountain Pine Police Department), Mariah Brown (therapist), Dr. George DeRoeck, Brock Baker, and Seth Draper, with the finding that the testimony of these witnesses was credible.

7. The Court also received testimony from, James Long, Jr. and Kattie Long, with the finding that their testimony was not particularly credible, particularly their testimony regarding communication with the Department and Kattie Long's explanation of her encounter with the Mountain Pine Police Department on September 15, 2022.

8. After considering the evidence, the Court finds that the evidence proves the following grounds:

a. The juveniles have been adjudicated by the Court to be dependent neglected and has continued out of the home of the parents for more than twelve (12) months and, despite a meaningful effort by the Department to rehabilitate the parents and correct the conditions that prevented the juveniles from being safely placed in the parents' home, those conditions have not been remedied by the parents.

9. In support of the above-listed grounds, the Court finds the following facts:

a. The juveniles were adjudicated dependent-neglected on July 21, 2021, on the grounds of neglect and parental unfitness. Specifically, the juveniles were living in a home that was environmentally unsafe, and the juveniles both had head lice and bed bugs that had to be treated with prescription medication upon their placement in foster care. Both parents have a history of substance abuse.

b. The conditions that prevent the juveniles from being safely placed in the parents' home have not been remedied; specifically, as to the mother, she completed her psychological evaluation and drug and alcohol assessment very late in the case and was discharged from counseling twice due to non-compliance. She still has issues with emotional instability, as particularly evidenced by her encounter with the Mountain Pine Police Department on September 15, 2022. She still lacks basic parenting skills.

c. As to the father, he also completed his psychological evaluation and drug and alcohol assessment very late in the case and was also discharged from counseling twice due to non-compliance. He tested positive for methamphetamines on his hair follicle taken on September 15, 2022, admitted he used methamphetamines as recently as 2 or 3 months ago, and stated that he does not believe he needs in-patient treatment.

d. As to both parents, their home still has significant environmental issues, and the parents admitted the home still has issues with insect infestation. Both parents have been non-cooperative since the beginning of the case.

e. The Court repeatedly found that the Department had made reasonable efforts to provide services to the family to rectify the situation that caused removal and to correct the conditions that prevented the juveniles' return to the parents' care.

f. This Court finds there is little likelihood that services to the family will result in successful reunification as there is no other service that could be provided to the parents that has not already been provided or offered.

10. The Court also finds that the evidence proves the termination of parental rights is in the best interest of the juveniles. In making this finding, the circuit court considered all relevant factors, including the likelihood that the juveniles would be adopted if the parental rights were terminated, and the potential harm, specifically addressing the effect on the health and safety of the juveniles, that could be caused by returning the juveniles to the parents.

a. As to the juveniles' adoptability, the Court finds that the juveniles are adoptable because there are 76 families interested in adopting juveniles who share characteristics with these juveniles.

b. As to potential harm, the Court finds that the juveniles would be subjected to potential harm if returned to the parents because there is no evidence that there has been any substantial change in the parents' situation since the removal. They still have not remedied the environmental concerns in the home, have not completed counseling, and the father has not received treatment for his substance abuse issues. The parents' behavior during this case indicates they would not appropriately care for the juveniles if placed in their care. It is not in the best interest of the juveniles to be returned to the care of the parents. The facts supporting the grounds for termination of parental rights also demonstrate how the juveniles would be at risk of harm if returned to the parents.

11. The Court, therefore, grants the Department's petition and terminates all parental rights between James Long, Jr. and Kattie Long as to the juveniles . . . pursuant to ARK. CODE ANN. § 9-27-341. Any prior orders directing the parents to pay on-going child support for the juveniles shall cease upon entry of this order. The Department is relieved of providing reunification services to the parents.

12. The permanency plan shall be adoption, which is an appropriate and viable plan for this case. The Department is authorized to consent to the adoption of the juveniles without further notice to or consent of the parents, and the juveniles shall not be adopted by any person or persons without the consent of the Department.

13. The Department has made reasonable efforts to finalize the juveniles' permanency plan and to provide reasonable and meaningful efforts to provide appropriate family services to the family. Despite these efforts and services, the juveniles cannot and should not be returned to the parents.

(Footnotes omitted.) This appeal followed.

II. *Standard of Review*

A circuit court's order terminating parental rights must be based upon findings proved by clear and convincing evidence. Ark. Code Ann. § 9-27-341(b)(3). Clear and convincing evidence is defined as that degree of proof that will produce in the fact finder a firm conviction as to the allegation sought to be established. *Posey v. Ark. Dep't of Health & Hum. Servs.*, 370 Ark. 500, 262 S.W.3d 159 (2007). On appeal, the appellate court reviews

termination-of-parental-rights cases de novo but will not reverse the circuit court's ruling unless its findings are clearly erroneous. *Id.* A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been made. *Id.* In determining whether a finding is clearly erroneous, an appellate court gives due deference to the opportunity of the circuit court to judge the credibility of witnesses. *Id.*

In order to terminate parental rights, a circuit court must find by clear and convincing evidence that termination is in the best interest of the juvenile, taking into consideration (1) the likelihood that the juvenile will be adopted if the termination petition is granted; and (2) the potential harm, specifically addressing the effect on the health and safety of the child, caused by returning the child to the custody of the parent. Ark. Code Ann. § 9-27-341(b)(3)(A)(i) & (ii). The order terminating parental rights must also be based on a showing by clear and convincing evidence as to one or more of the grounds for termination listed in section 9-27-341(b)(3)(B). However, only one ground must be proved to support termination. *Reid v. Ark. Dep't of Hum. Servs.*, 2011 Ark. 187, 380 S.W.3d 918.

The intent behind the termination-of-parental rights statute is to provide permanency in a child's life when it is not possible to return the child to the family home because it is contrary to the child's health, safety, or welfare, and a return to the family home cannot be accomplished in a reasonable period of time as viewed from the child's perspective. Ark. Code Ann. § 9-27-341(a)(3). Even full compliance with the case plan is not determinative; the issue is whether the parent has become a stable, safe parent able to care for his or her

child. *Cobb v. Ark. Dep't of Hum. Servs.*, 2017 Ark. App. 85, 512 S.W.3d 694. Moreover, a child's need for permanency and stability may override a parent's request for additional time to improve the parent's circumstances. *Id.* Finally, a parent's past behavior is often a good indicator of future behavior. *Id.*

III. Statutory Grounds

Both parents challenge the circuit court's finding that statutory grounds existed to support the termination. The circuit court granted the termination petition on the statutory failure-to-remedy ground, which provides that parental rights may be terminated when a juvenile has been adjudicated by the court to be dependent-neglected and has continued to be out of the custody of the parent 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. Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a).

Both James and Kattie argue that the circuit court erred in terminating their parental rights because DHS failed to prove that it had made a meaningful effort to rehabilitate them and to correct the conditions that caused the children's removal. James admits that the children were removed from the home due to his drug use and environmental issues in the home. Although Kattie also admits that the children were removed due to environmental issues in the home, she disputes that she ever had an issue with substance abuse. However, the circuit court's adjudication order, which was not appealed, made the following findings:

The Court finds that the juveniles are dependent-neglected and that the allegations in the petition are true and correct, specifically, the Court finds the juveniles were at substantial risk of serious harm from neglect, and parental unfitness. Specifically, the

juveniles were living in a home that was environmentally unsafe, and the juveniles both had head lice and bed bugs that had to be treated with prescription medication. Both parents have a history of substance abuse.

(Footnotes omitted.) Thus, the circuit court's adjudication order made it clear that the conditions that necessitated the children's removal included both environmental issues and the parents' history of substance abuse, and the circuit court specifically found in its termination order that appellants failed to remedy those conditions.

Regarding the environmental issues, both parents argue that DHS failed to provide any services to correct the environmental conditions "except for some bug traps." They argue that "homemaker services" and "pest control services" should have been provided and that, despite DHS's lack of assistance, they did their best to make their home satisfactory to DHS. Kattie adds that DHS had never been relieved of providing reunification services to the family and was required to make a meaningful effort to aid the parents in remedying the issues that caused the children's removal up to the time of the termination hearing.

Citing *Peterson v. Arkansas Department of Human Services*, 2020 Ark. App. 75, 595 S.W.3d 38, DHS argues that appellants waived any argument regarding DHS's failure to make meaningful efforts to address the environmental issues because appellants failed to challenge any of the circuit court's prior reasonable-efforts findings and because they failed to request any of the services they now complain were necessary for reunification. In *Peterson*, DHS made a similar argument that Franklin Peterson had waived any argument that DHS had not made meaningful efforts as required to prove the failure-to-remedy ground. Like here, Franklin had not specifically appealed from any of the circuit court's prior orders

finding that DHS had made reasonable efforts. There, we agreed with DHS and specifically held the following:

Although Franklin may have raised a services argument at the TPR hearing, he failed to challenge any of the circuit court’s prior reasonable-efforts findings, and *he failed to request any of the specific services that he now claims were necessary to remedy the cause of removal*; therefore, he has waived any services argument on appeal.

Peterson, 2020 Ark. App. 75, at 11, 595 S.W.3d at 44–45 (emphasis added).

Here, although DHS correctly cites Kattie’s initial testimony that the only service she had requested that DHS had not provided was that she said she “needed a two-seater stroller, a highchair and a playpen,” DHS fails to acknowledge Kattie’s subsequent testimony that she had requested help with the “bug infestation” but that she “never heard anything back.” Therefore, unlike in *Peterson*, appellants did raise a services argument at the termination hearing and alleged that they requested DHS’s help with the insects that were in their home. Accordingly, appellants have not waived that specific argument on appeal. See *Tatum v. Ark. Dep’t of Hum. Servs.*, 2017 Ark. App. 674, 536 S.W.3d 178; *Threadgill v. Ark. Dep’t of Hum. Servs.*, 2017 Ark. App. 426, 526 S.W.3d 891; see also *Martin v. Ark. Dep’t of Hum. Servs.*, 2017 Ark. 115, 515 S.W.3d 599.

Nevertheless, even to the extent appellants’ argument that DHS failed to make meaningful efforts because it failed to “follow-through” with obtaining a professional pest-control company is preserved, it lacks merit. Although Kattie did testify that she requested DHS’s help, Mr. Baker stated that he did not make any referrals for pest control because the “family has not ever been open to those kinds of services.” Moreover, there were several

environmental issues with the parents' home that did not involve an insect infestation. For example, DHS offered testimony that the parents' home was still cluttered and unsafe and that they also still had electrical issues to resolve. Appellants argue that they remedied those conditions, and Mr. Baker admitted that the more recent pictures offered by the parents at the hearing showed some improvement in the children's room. However, Mr. Baker explained that the pictures did not show whether his concerns were addressed in the other rooms. Thus, even if a professional pest-control company could have resolved any infestation issues, the home would still be environmentally unsafe according to the testimony DHS offered, which the circuit court credited.

Furthermore, even if the parents had resolved the environmental issues with their home, the fact remains that both parents failed to resolve their substance-abuse issues by the time of the termination hearing. James argues that even though he admitted that he used methamphetamine two or three months before the hearing, we should reverse because he "went to his drug and alcohol assessment; he went to his hair follicle test as ordered; and he consistently called the treatment facility to begin his treatment." He additionally argues that DHS failed to show that he "consistently abuses drugs." Kattie argues that DHS failed to show that she has any substance-abuse issues and that even though she did have a positive screen for THC at the time the children were removed and refused to complete a hair-follicle test when the case first opened, she had a medical marijuana card, and DHS lacked any "credible concerns" that she had an issue with substance abuse. Again, these arguments lack merit.

Both parents failed to complete their psychological and drug-and-alcohol assessments until very late in the case. James's recent hair-follicle test taken on September 15, 2022, showed that he was positive for methamphetamine, and he admitted using methamphetamine just two or three months prior to the termination hearing. Further, by the time of the hearing, he had failed to start any inpatient treatment as recommended and testified that he did not think he needed inpatient treatment but would agree to go if required. Kattie had refused a hair-follicle test, and Dr. George DeRoeck, her psychologist, testified that he believed she was overusing medical marijuana and would benefit from outpatient drug treatment. However, she failed to follow Dr. DeRoeck's recommendation. We have previously held that recent drug usage and the failure to submit to drug screens or hair-follicle tests demonstrates a parent's failure to remedy a substance-abuse problem. See generally *Myers v. Ark. Dep't of Hum. Servs.*, 2023 Ark. App. 46, 660 S.W.3d 357; *Harris v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 499; *Garner v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 33, 639 S.W.3d 421.

The credibility of any witness's testimony is to be assessed by the trier of fact—and the trier of fact may believe all, part, or none of it. *Gibby v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 146, 643 S.W.3d 794. Here, the circuit court credited other witnesses' testimony over that of the appellants'. On the basis of these facts, we cannot hold that the circuit court clearly erred in its findings and affirm that there was sufficient evidence to support the failure-to-remedy ground.

IV. Best Interest

Neither parent challenges the circuit court's findings regarding adoptability. Thus, we need not consider that issue. *Yarbrough v. Ark. Dep't of Hum. Servs.*, 2016 Ark. App. 429, 501 S.W.3d 839. Instead, James alleges that the evidence failed to establish that he posed such potential harm that would warrant terminating his parental rights. He more specifically argues that his previous arguments above also support "a reversal with regard to a finding that termination is in his children's best interest." We disagree.

In this case, the circuit court had ample evidence of potential harm to support its best-interest finding. In assessing the potential-harm factor, the court is not required to find that actual harm would ensue if the child were returned to the parent nor to affirmatively identify a potential harm. *Sharks v. Ark. Dep't of Hum. Servs.*, 2016 Ark. App. 435, 502 S.W.3d 569. The potential-harm analysis is to be conducted in broad terms. *Id.* Past actions of a parent over a meaningful period of time are good indicators of what the future may hold. *Id.* Although James contends that he made recent progress and efforts to comply in the months and weeks leading up to the termination hearing that should be taken into consideration, it is not a bar to termination of parental rights when a parent fails to demonstrate an ability to remain sober in an unstructured environment for a significant period of time. *See id.*; *Moore v. Ark. Dep't of Hum. Servs.*, 2015 Ark. App. 87. Additionally, evidence of a parent's continued drug use or failure to comply with court orders constitutes sufficient evidence of potential harm. *Johnson v. Ark. Dep't of Hum. Servs.*, 2020 Ark. App. 313, 603 S.W.3d 630.

Here, James admitted at the termination hearing that he had recently used methamphetamine two or three months before the hearing; tested positive for methamphetamine on his hair-follicle test taken on September 15, 2022; and stated that he does not believe he needs inpatient drug treatment. Additionally, there was testimony that the environmental concerns had not been remedied by the time of the termination hearing. As such, James's behaviors over the course of the entire case as outlined above do not show enough stability to render the circuit court's finding that he posed a risk of potential harm to the children clearly erroneous. Accordingly, we affirm the order terminating parental rights.

Affirmed.

GLADWIN and BARRETT, JJ., agree.

Dusti Standridge, for separate appellant James Long.

Jennifer Oyler Olson, Arkansas Commission for Parent Counsel, for separate appellant Kattie Long.

Ellen K. Howard, Ark. Dep't of Human Services, Office of Chief Counsel, for appellee.

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