

Cite as 2024 Ark. App. 278  
**ARKANSAS COURT OF APPEALS**

DIVISION II  
No. CV-23-785

AMBER MICHELLE RICE AND KEVIN  
ROBERT SIERZCHULA

APPELLANTS

V.

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES AND MINOR  
CHILDREN

APPELLEES

Opinion Delivered April 24, 2024

APPEAL FROM THE MARION COUNTY  
CIRCUIT COURT  
[NO. 45]V-21-28]

HONORABLE DEANNA “SUZIE”  
LAYTON, JUDGE

AFFIRMED

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**KENNETH S. HIXSON, Judge**

Appellants Amber Michelle Rice (Amber) and Kevin Robert Sierzchula (Kevin) (sometimes referred to herein collectively appellants) separately appeal after the Marion County Circuit Court filed an amended order terminating their parental rights to their two children, Minor Child 1 (MC1) (DOB 12-27-18) and Minor Child 2 (MC2) (DOB 08-30-21). Both parents generally allege that the circuit court erred in finding that termination was in the children’s best interest. Kevin additionally alleges that the circuit court erred in finding that statutory grounds existed to support the termination. We affirm.

I. *Relevant Facts*

On September 3, 2021, the Arkansas Department of Human Services (DHS) filed a petition for emergency custody and dependency-neglect of MC1 and MC2.<sup>1</sup> In the affidavit attached to the petition, a family-service worker (FSW) averred that DHS became involved after Amber had tested positive for methamphetamine, oxycodone, opiates, benzodiazepines, and amphetamines at the time of MC2's birth. During an interview, Amber admitted that prior to going to the hospital, she had taken her prescription medications, and in addition, she took "half of a Xanax," half of an unknown pill, and cough medicine, none of which were prescribed. Amber and Kevin were not married or living together at that time. Kevin submitted to a drug screen and tested positive for THC, methamphetamine, and amphetamines. DHS exercised a seventy-two-hour hold to ensure MC1 and MC2's safety.

The circuit court granted the petition for emergency custody on September 7, 2021, finding that there was 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 Amber's custody. A probable-cause order was filed on September 8, 2021. The court found that probable cause existed and continued to exist requiring that the children remain in the custody of DHS.

An adjudication order was subsequently filed on January 9, 2022. The parties stipulated and the circuit court found that the children were dependent-neglected. The

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<sup>1</sup>We note that DHS also asked for "less-than custody" as to a third minor child, MC3, in its petition. MC3 had been living with other caregivers at the time of MC1's and MC2's removal, and a protection plan was in place. Because appellants' parental rights were not terminated as to MC3 in the order appealed from, there is no need to further discuss MC3 in this opinion. As such, any reference to children refers to MC1 and MC2.

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 found that Kevin did not contribute to the dependency-neglect but was not a fit parent for the purposes of custody or visitation due to his substance abuse. The circuit court declared that Kevin is MC1's and MC2's legal father. The circuit court ordered that visitation was to be monitored by DHS; that the parents were to comply with the case plan presented; and that the parents were to submit to a hair-follicle test on or about February 1, 2022. Further, the circuit court ordered monitored visitation for Amber with approval to expand to a trial home placement as long as Amber was not under the influence of drugs or intoxicating substances and working the requirements of the case plan.

On March 9, 2022, the circuit court held a review hearing, and an order was filed on April 6, 2022. The circuit court ordered that the case plan goal remain reunification with a concurrent goal of permanent custody and that MC1 and MC2 remain in DHS custody. The court found Amber in partial compliance with the case plan because she was visiting with the children, was employed, and had housing, but she needed to complete parenting classes and to address her substance abuse through treatment and counseling. The court found Kevin in minimal compliance with the case plan because he had visited only twice since the previous hearing; had no residence; had tested positive on his drug screens; and still needed to address substance-abuse issues, attend counseling, and obtain housing, employment, and stability. Kevin was appointed counsel after he initially declined appointment of counsel at the adjudication hearing. The circuit court continued the prior

visitation orders, ordered both parents to submit pay stubs to DHS every two weeks, and ordered Amber to submit to a hair-follicle test within seven days.

On July 13, 2022, the circuit court held another review hearing, and an order was filed on August 10, 2022, in which it continued concurrent goals of reunification and permanent custody and custody of MC1 and MC2 with DHS. The court found that Amber had only minimally complied with the case plan because, while she had housing and was employed, she avoided her hair-follicle test that was ordered at the previous hearing; had adulterated drug screens; had not completed parenting classes; and still needed to complete a drug-and-alcohol assessment. The court found that Kevin had made only minimal progress to date and still needed to obtain suitable housing and address his substance abuse; had not followed through with outpatient treatment for substance abuse; and was still testing positive for illegal substances. The circuit court ordered Amber and Kevin to attend two NA/AA meetings a week and provide sign-in sheets by noon each Monday and to provide paycheck stubs by noon each Monday. Amber was ordered to enroll in parenting education within seven days; submit to a hair-follicle test or face contempt; and provide her driver's license to DHS within twenty-four hours. Additionally, the circuit court found DHS had made reasonable efforts and continued its prior orders as to visitation.

On October 26, 2022, the circuit court held a permanency-planning hearing, and an order was filed on December 3, 2022. The circuit court continued the goal of reunification with a concurrent goal of permanent placement with a fit and willing relative and ordered that MC1 and MC2 remain in DHS's custody. The circuit court also found Amber in partial

compliance with the case plan because she had been attending AA/NA meetings since July, had completed parenting classes, was visiting the children, and had housing; however, she was unemployed with no form of transportation, had not completed a drug-and-alcohol assessment, and was positive for methamphetamine on her hair-follicle test. The circuit court found Kevin in partial compliance with the case plan because he had tested negative on his drug screens; had employment; had completed parenting classes; and had been visiting and attending NA/AA meetings, but he had not enrolled in counseling. Further, the circuit court found that DHS had made reasonable efforts. The circuit court, slightly altering its earlier order, authorized expanded visitation with the added condition that Amber complete a substance-abuse and mental-health assessment. The circuit court again ordered both parents to complete a hair-follicle test prior to the next hearing.

On January 11, 2023, the circuit court held another hearing, and an order was filed on March 28, 2023. The circuit court ordered Amber and Kevin to submit to hair-follicle testing for substance abuse by the end of the week and to provide NA/AA sign-in sheets and pay stubs to DHS by noon on Mondays. Amber was ordered to complete her previously ordered drug assessment. The circuit court further stated that a contempt hearing would be scheduled if the parents failed to follow court orders.

A fifteen-month review and contempt hearing was held on April 12, 2023. An order of contempt was subsequently filed on April 13, 2023, because Amber failed to submit to hair-follicle testing. A fifteen-month review and contempt order was also filed on May 6, 2023. The circuit court changed the goal of the case to adoption and authorized DHS to

file a petition for termination of parental rights. Specifically, the circuit court made the following findings regarding appellants' compliance:

Drug tests show that parents are continuing to use illegal substances as pattern throughout case. Despite the Court's multiple recess hearings, the Mother has not complied with the court ordered hair follicle test for seven months. Mother has not engaged in mental health treatment. Mother has no driver's license or reliable transportation. Parents are worse off now than when the case began. Father has new criminal drug charges. He has not attended NA and provided proof of attendance. He continues to test positive for multiple illegal substances. He has no stable housing. Mother is not attending NA meetings, has missed visits since visits were moved back to DHS office.

Amber was found in contempt for willfully failing to submit to hair-follicle testing for substance abuse and was sentenced to serve ten days in jail. Both parents were ordered to submit to hair-follicle testing within thirty days.

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, other-subsequent-factors, and aggravated-circumstances grounds. After a series of continuances, the final termination hearing concluded on July 3, 2023.

At the termination hearing, Kevin testified that he had been living with a friend for the last three months. Although he admitted that he had missed visits in the past, he explained that he had been attending visits within the last couple of months. He did not have a working vehicle but instead relied on friends or people from work to transport him. Kevin claimed that he had been working at his current job for about a year. He admitted that he had pending charges against him but was unsure what they were other than one

charge being possession of drug paraphernalia. Kevin asked that the children be returned, but he admitted that he could not take care of them by himself. He explained that he would need the help and support of family and friends. He stated that he thought it would help if DHS provided him inpatient or outpatient rehabilitation and admitted that the longest period of time that he had stayed clean and sober was only a couple of months. He explained that he had already applied for inpatient rehabilitation but was waiting for a bed. He did not have any explanation as to why he waited so long to seek treatment. Other than rehabilitation, Kevin did not think there were any other services DHS needed to provide him.

Amber testified that she had been living in Bull Shoals, Arkansas, but that she anticipated moving into a house with her boyfriend within the next couple of weeks. She explained that she had a miscarriage in January 2023 and that she was not employed at that time. She had stopped working at a bar in October 2022. She stated that she needed surgery for an umbilical hernia and just found out that she had cervical cancer that also required surgery. Amber did not have a driver's license and explained that she had lost her license on her twenty-first birthday. She was thirty-seven years old at the time of the hearing.

Amber admitted that she had taken a pain pill and methamphetamine at the time of MC2's birth. However, she stated that "[i]t wasn't like it was really high levels." She did not believe that MC2 had experienced any withdrawal symptoms after his birth. When asked about the delay in submitting to the hair-follicle tests, Amber testified that she had been in the hospital after the miscarriage and that her grandmother passed away. She also

complained that she felt there was no reason why her unsupervised overnight visitation was taken away and disputed that she had failed any random drug screens. She at first claimed she had not failed any random tests in over a year but then admitted she had relapsed because of all the difficulties she had been facing. She stated that she knew she had made some mistakes but claimed she could not live without her children and wanted them returned to her.

Martha Jackson, the DHS caseworker assigned to the case, testified as to the case history as already outlined herein. She explained that she had made multiple referrals for both parents for mental-health and substance-abuse assessments. Ms. Jackson explained that Amber had submitted to two hair-follicle tests, and both tests were positive for drugs. She further explained that Amber had to be held in contempt before submitting to the second hair-follicle test and that Amber had offered various excuses for failing to submit to it when ordered. Regarding Amber's visitation with the children, Ms. Jackson testified that Amber had progressed to unsupervised overnight visitation but that it had to be stopped in March 2023 because of "the company that [Amber] was having in and out of her home." She stated that Amber exhibited some behaviors that made her concerned for the children's safety and that Amber stopped making progress. Amber did not provide her any pay stubs and provided only one NA/AA sign-in sheet from the previous year during the pendency of the case. Ms. Jackson opined that Amber had not shown that she could maintain stability.

Regarding Kevin, Ms. Jackson testified that, although Kevin claimed he had completed his substance-abuse assessment, she had not seen a result. She explained that he



has had “a few pop up positive” results during his random drug tests and that there had been times when Kevin was not able to produce a sample or would admit that he would test positive for THC. Ms. Jackson had not received any results from a mental-health assessment despite referrals being made. She was not aware of his attending any counseling. Although Kevin had provided some pay stubs, the last pay stub submitted was from March 2023. He had not provided any NA/AA sign-in sheets. Ms. Jackson had never been able to visit any of Kevin’s dwellings to assess them for stability, and she knew he relied on others for transportation.

Ms. Jackson opined that it was not in the best interest of the children for them to be returned to either parent. She did not think there were any additional services that could be offered that would result in successful reunification. Accordingly, she recommended termination of parental rights and adoption, as she said that both children are “highly adoptable.”

On cross-examination, Ms. Jackson acknowledged that both parents have a close bond with the children. She also acknowledged that Kevin had claimed he was going to go into inpatient rehabilitation without DHS’s assistance. However, even if he did enter rehabilitation at that time, she did not think the children would be able to achieve permanency in a “timely manner.” She explained that she “wish[ed]” Kevin had entered rehabilitation sooner in the case. The longest period of sobriety that she had seen from either parent had been only one month.

After DHS rested, Kevin and Amber moved for dismissal of the termination petition because there was insufficient evidence presented. They complained that DHS had not introduced the previous court orders or the case plan as exhibits. DHS and the attorney ad litem disagreed and thought sufficient evidence had been introduced. The attorney ad litem additionally asked the circuit court to take judicial notice of the previous court orders. The circuit court denied the motions to dismiss.

Kevin stated that he had no witnesses to present, and Amber was recalled to testify on her own behalf. Amber recounted the health issues she had experienced during the pendency of the case, including a miscarriage, umbilical hernia, and cervical-cancer diagnosis. She testified that she had recently begun attending counseling. She thought the overnight visits with her children went well until DHS stopped those visits in March 2023. Although she does not have overnight visits, Amber testified that DHS had been allowing unsupervised visitation in her home. She requested that her children be returned to her and stated she would be willing to do “anything” to get them back.

Sheila Treat testified that she transported the children to their visitations with appellants. She confirmed that the children are happy to see their mother for visitation and that she leaves the children with Amber for unsupervised visitation. She also confirmed that the children are excited to see their father during his visitation and that Kevin had supervised visitation. She opined that the children are bonded with both parents.

At the conclusion of the termination hearing, the parties renewed their motions to dismiss and gave closing arguments. The circuit court orally ruled that it was denying the

motions to dismiss and that DHS had presented prima facie evidence for termination. However, the circuit court took the matter under advisement and subsequently ordered that any posttrial briefs be filed on or before August 21, 2023, in an order filed on August 11, 2023. Both the attorney ad litem and DHS submitted briefs in support of the termination. Amber filed a brief asking that the termination petition be dismissed. She argued that the circuit court should not take judicial notice of the case's prior orders as a substitute for DHS's offering certified copies during the termination hearing. Although Amber acknowledged that there was testimony presented at the hearing, she argued that there was "not enough evidence presented at the hearing to rise to the heightened burden of proof for any of the grounds alleged."

The circuit court filed an amended order terminating appellants' parental rights on September 25, 2023. In a very lengthy and detailed order, the circuit court specifically found by clear and convincing evidence that all three grounds alleged in the petition supported termination and that it is in the best interest of the children to terminate appellants' parental rights. Relevant to appellants' points on appeal, the circuit court made the following specific findings:

6. The Court finds by clear and convincing evidence that the following grounds have been proven by the Plaintiff;

....

- c. *That a parent is found by a court of competent jurisdiction including the juvenile division of the circuit court to have subjected any juvenile to aggravated circumstances and aggravated circumstances means that a juvenile has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused or determination has been made or*

*is made by a judge that there is little likelihood that services to the family will result in successful reunification.*

In this matter, the case has been open for twenty-two (22) months. During that time period, both parents have failed to follow through with the identified drug treatment and services to remedy the conditions of removal as set forth in 6(a) above. They have taken no steps to reunify the family and insure the health and safety of the juveniles. See the facts set forth in 6(a) above. If in twenty-two (22) months there has been no substantial measurable progress or compliance towards the case plan and court orders, there is little likelihood that further services to the parents would result in successful reunification or placement of the children with them. There have been no identified additional services that could be offered to the parents to facilitate the placement of the juveniles back with the parents. The parents have simply not remedied the conditions that led to the removal by taking advantage of the services offered throughout this case. They have failed to put themselves in any position to have the care, custody or control of juveniles. After twenty-two (22) months, they are still at the starting gate as it applies to compliance. They hav[e] failed to address their substance abuse issues and its related instability in any form that could be deemed measurable progress.

The case worker testified the Department of Human Services could not recommend placement of the children today as no stability has been shown in this case and no proof of commitment to long term sobriety. The Court finds the testimony of the caseworker credible as to all her testimony given in this case. She has been the caseworker since the time of removal through the date of this hearing. All the children have been left with are promises as to what their parents are going to do but the reality is that in twenty-two (22) months those are empty promises based on lack of action throughout this case.

As stated in *Collier v. Arkansas Department of Human Services*, 2022 Ark. App. 100, 641 S.W.3d 67, in considering best interest, the court may consider past behavior as a predictor of likely potential harm should the juvenile be returned to the parent's care and custody. In this case the parents' past and present behavior consists of illegal drug use and instability that continues. This creates potential harm to the juveniles to be returned to the parents.

....

8. There is no affirmative duty of the Plaintiff to reprove factual findings made by the Court in earlier rulings. A.C.A. 9-27-341(a)(4) sets out as follows:

*The Court shall rely upon the record of the parent’s compliance in the entire dependency-neglect case and evidence presented at the termination hearing in making its decision on whether it is in the best interest of the juvenile to terminate parental rights.*

The language of the aforementioned statute uses two specific subsets of words “shall rely” as well as “entire dependency-neglect case “and” evidence presented at the termination hearing”. The Court in *Myers v. Arkansas Department of Human Services*, 2023 Ark. App. 46, 660 S.W.3d 357, citing *In re Adoption of K.M.C.*, 62 Ark. App 95, 969 S.W.2d 197 (1998), found that the circuit court has a duty to look at the case as a whole and how the parent has discharged her parental duty, the substantial risk of harm the parent imposes, and whether the parent is unfit. All parties would have been given the opportunity to participate in all prior hearings and there would be no need to relitigate each stage of the proceedings at the termination hearing. The Court has complied with A.C.A. 9-27-341(a)(4). There is no requirement for the court to take judicial notice of rulings and findings already made by the Court in this case. Per A.C.A. 9-27-341(a)(4) this is not a necessary step. Judicial notice relates to receiving evidence. The findings and rulings have already been made in this case and are not from a separate legal case, treatises, publication, etc. which might require judicial notice or even certified copies. The Court did not take judicial notice of what is already part of this case for the last twenty-two (22) months as the record has already been made.

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 of 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

Only Kevin challenges the circuit court's finding that statutory grounds existed to support the termination. The circuit court granted the termination petition on the basis of the failure-to-remedy, the other-subsequent-factors, and the aggravated-circumstances grounds.

Kevin first argues on appeal that there was insufficient evidence to support the statutory grounds found by the circuit court because DHS failed to introduce into evidence certified copies of the court's previous orders filed in this case during the termination hearing. He acknowledges that the attorney ad litem requested that the circuit court take judicial notice of these orders, but Kevin notes that there is no evidence the circuit court did so. Kevin's argument lacks merit.

We have previously held that DHS does not have an affirmative duty to reprove factual findings made by the circuit court in earlier orders. *Myers v. Ark. Dep't of Hum. Servs.*, 2023 Ark. App. 46, 660 S.W.3d 357. Arkansas Code Annotated section 9-27-341(a)(4) specifically requires a court to “*rely upon the record of the parent's compliance in the entire dependency-neglect case and evidence presented at the termination hearing in making its decision on whether it is in the best interest of the juvenile to terminate parental rights.*” (Emphasis added.) The record in the “entire dependency-neglect case” as contemplated in subdivision (a)(4) necessarily includes the previous orders of the court contained in the

circuit court's record. Therefore, Kevin's argument that the circuit court failed to take judicial notice of the previous orders in the record and that DHS failed to introduce said orders has no merit because they were part of this dependency-neglect case. Moreover, as discussed below, the record on appeal contains evidence introduced at the termination hearing that was sufficient to support the circuit court's findings that statutory grounds existed and that termination was in the children's best interest.

Here, the evidence clearly supported the aggravated-circumstances ground, and only one ground is necessary to support the termination. See *Campbell v. Ark. Dep't of Hum. Servs.*, 2017 Ark. App. 82. Arkansas Code Annotated section 9-27-341(b)(3)(B) defines this ground as follows:

(ix)(a) The parent is found by a court of competent jurisdiction, including the circuit court juvenile division, to:

.....

(3)(A) Have subjected any juvenile to aggravated circumstances.

(B) "Aggravated circumstances" means:

(i) A juvenile has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused, or a determination has been or is made by a judge that there is little likelihood that services to the family will result in successful reunification[.]

This case had been open for approximately twenty-two months, and Kevin still had failed to address and resolve his substance-abuse issues. In fact, he had new drug charges pending against him. Although Kevin claimed at the termination hearing that he intended to seek inpatient rehabilitation for the first time and had obtained a grant without DHS's



assistance to pay for it, the circuit court was not required to believe his self-serving testimony that he would follow through and achieve stability. Further, Ms. Jackson testified that there were no additional services that could be offered that would result in successful reunification. As such, we cannot say that the circuit court's finding that there was little likelihood that services would result in successful reunification was clearly erroneous.

Kevin additionally argues that there was insufficient evidence for the circuit court to find that DHS "had made reasonable or meaningful efforts to reunify the family." He explains that his own testimony showed that he lacked an understanding of what services had been provided to him and that DHS failed to offer him services or accommodate his illiteracy in accordance with the Americans with Disabilities Act of 1990 (ADA) or provide him with inpatient drug rehabilitation.<sup>2</sup> His arguments lack merit.

On the record before us, Kevin did not raise any argument at the termination hearing regarding DHS's failure to provide him reasonable accommodations or even state that he had requested ADA accommodations. See *Bane v. Ark. Dep't of Hum. Servs.*, 2016 Ark. App. 617, 509 S.W.3d 647. Further, the requirement that DHS make reasonable accommodations for a disability is not an overarching mandate applicable to all grounds for termination but is instead one of the elements contained only in the other-subsequent-factors ground. *Anderson v. Ark. Dep't of Hum. Servs.*, 2016 Ark. App. 428, 501 S.W.3d 831.

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<sup>2</sup>Kevin further states in his brief that since the termination, he has completed inpatient rehabilitation and has remained clean and sober for almost six months. We agree with DHS and the ad litem that an appellate court does not consider matters outside the record. *Fisher v. Ark. Dep't of Hum. Servs.*, 2017 Ark. App. 693, 542 S.W.3d 168.

Similarly, even though Kevin testified that he did not know of any services DHS could provide him other than inpatient drug rehabilitation, a finding of aggravated circumstances does not require DHS to prove that meaningful services toward reunification were provided. *Miller v. Ark. Dep't of Hum. Servs.*, 2023 Ark. App. 249, 666 S.W.3d 879. For the reasons already explained above, we hold that there was sufficient evidence for the court to find there was little likelihood that further services to Kevin would result in a successful reunification. As such, we affirm on this point.

#### IV. *Best Interest*

Both parents challenge the finding that termination was in the best interest of the children, specifically the circuit court's findings regarding potential harm. 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. Amber argues that there was no evidence to support that the children would be at risk of harm if returned to her custody because she has a strong bond with the children, had progressed to unsupervised visitations, and relapsed only after she had a miscarriage and other health issues. Kevin argues that he has a close bond with the children, that he was exercising his visitation, and that separation of the children from their parents would generally be detrimental to the children.

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 both parents contend that they 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. We have also explained that the lack of time to complete appropriate services is irrelevant to the circuit court's determination of best interest. *Lloyd v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 461, 655 S.W.3d 534. DHS is not required to provide services under the analysis of potential harm. *Id.*

Here, both parents failed to comply with the case plan and court orders throughout the case. Further, the circuit court heard testimony that the longest period of sobriety for either parent was only a month. Amber's most recent hair-follicle test in May 2023 was positive for methamphetamine and amphetamine. Although Amber was allowed unsupervised visitation, DHS had recently scaled back from the overnight unsupervised visitation that she had been receiving because of safety concerns. Kevin had failed to maintain stable and appropriate housing and was living with a friend and sleeping on his

couch at the time of the hearing. He failed to engage in drug treatment or even complete an assessment until the eleventh hour and continued to use drugs.

Even though there was evidence that appellants were bonded with the children, the existence of a bond between the biological parent and child may not be sufficient to prevent termination of parental rights when weighed against other facts in the case. *Lemon v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 253. 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. *Holdcraft v. Ark. Dep't of Hum. Servs.*, 2019 Ark. App. 151, 573 S.W.3d 555. Appellants' behaviors over the course of the entire case as outlined above do not show sufficient stability to render the circuit court's finding that they posed a risk of potential harm to the children clearly erroneous. Accordingly, we affirm the order terminating parental rights.

Affirmed.

WOOD and BROWN, JJ., agree.

*Jennifer Oyler Olson*, Arkansas Commission for Parent Counsel, for separate appellant Amber Rice.

*Elizabeth Finocchi*, for separate appellant Kevin Sierzchula.

*Kaylee Wedgeworth*, Ark. Dep't of Human Services, Office of Chief Counsel, for appellee.

*Dana McClain*, attorney ad litem for minor children.