

NOT DESIGNATED FOR PUBLICATION
ARKANSAS COURT OF APPEALS
D.P. MARSHALL JR., Judge

DIVISION IV

CA07-289

5 September 2007

JENNIFER ROEHM,

APPELLANT

v.

ARKANSAS DEPARTMENT
OF HEALTH and HUMAN
SERVICES,

APPELLEE

AN APPEAL FROM THE DREW
COUNTY CIRCUIT COURT
[JV-2006-0128-5]

THE HONORABLE TERESA
FRENCH, CIRCUIT JUDGE

AFFIRMED

This case is about whether one parent should have discerned that the other parent was abusing their children. Jennifer Roehm appeals the circuit court's order adjudicating her twin sons, J.R. and D.R., dependent-neglected. She contests the court's finding that she should have known her husband was abusing their young sons and failed to take reasonable action to protect them.

Jennifer took J.R., then four months old, to the hospital in late 2006 after she found him lethargic and not breathing while in her husband's care. At Arkansas Children's Hospital, Dr. Karen Farst discovered that J.R. had a skull fracture,

bleeding around his brain and one of his eyes, at least eight broken ribs, a broken leg, and a broken collar bone. J.R., however, had not been involved in any accidents. Dr. Farst suspected child abuse. She is a pediatrician and regularly sees children who are hospitalized with injuries that could be from abuse or neglect. When D.R. was evaluated at this hospital the next day, he had bruises all over his face and body. Dr. Farst found that he had four broken ribs and a broken leg.

It is undisputed that Jennifer did not injure her children—Jeffrey Roehm, the children's father and Jennifer Roehm's husband, did. He admitted to a police investigator that he got aggravated when their boys cried a lot. And he admitted that he shook the babies. The circuit court found that D.R.'s many bruises were obvious signs of abuse, and that J.R. also had signs of abuse, such as vomiting and decreased weight. It adjudicated J.R. and D.R. dependent-neglected, concluding that Jennifer should have known that Jeffrey was abusing them and taken action to protect them. Ark. Code Ann. § 9-27-303(36)(A)(iii) (Supp. 2005).

Jennifer argues that the injuries were not obvious enough for her to have known that her children were being abused. She could not monitor her husband's interactions with their boys because she worked long hours and Jeffrey was the boys' primary caregiver. She highlights Dr. Farst's testimony that some of the children's symptoms could have been overlooked. She also argues that, when she sought

medical attention for the children twice in November and December 2006 for unusual symptoms, no one expressed a concern about child abuse.

We affirm the circuit court's decision. Unlike the medical personnel who saw the boys briefly, Jennifer spent many hours with her sons and her husband in their home every day. The Roehms' infant sons had extensive bruising on their faces and bodies, symptoms such as weight loss, vomiting, lethargy, and decreased alertness. J.R. even stopped breathing. Contrary to Jennifer's testimony, blood-clotting tests showed that the children did not bruise easily. Further, Dr. Farst testified that a retinal hemorrhage like J.R.'s is a very specific condition in children who are violently shaken, and that leg fractures like D.R.'s are uncommon in children who are not yet walking or crawling.

ADHHS had to prove by a preponderance of the evidence that Jennifer should have known that J.R. and D.R. were being abused and that she failed to take reasonable action to protect them. Ark. Code Ann. § 9-27-325(h)(2)(B) (Supp. 2005); *Moiser v. Arkansas Department of Human Services*, 95 Ark. App. 32, 35, ___ S.W.3d ___, ___ (2006). Considering all the circumstances, we hold that the circuit court's adjudication was not clearly against the preponderance of the evidence. 95 Ark. App. at 34-35, ___ S.W.3d at ___.

Affirmed.

BIRD and HEFFLEY, JJ., agree.