

Cite as 2023 Ark. App. 84  
**ARKANSAS COURT OF APPEALS**

DIVISION I  
No. CV-22-591

JULIE NAULT

APPELLANT

Opinion Delivered February 15, 2023

V.

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT  
[NO. 72]V-21-125]

ARKANSAS DEPARTMENT OF HUMAN  
SERVICES AND MINOR CHILD

HONORABLE DIANE WARREN,  
JUDGE

APPELLEES

AFFIRMED

---

**MIKE MURPHY, Judge**

Appellant Julie Nault appeals from the Washington County Circuit Court’s termination of her parental rights to her minor child, MC. On appeal, Nault argues that the termination order was not supported by sufficient evidence. We affirm.

On February 14, 2021, the Arkansas Department of Human Services (“Department”) exercised an emergency hold on three-year-old MC and filed a petition for emergency custody and dependency-neglect. The affidavit supporting the petition alleged that law enforcement was called to the home after the minor child’s father, Aaron Samplawski, was arrested on drug charges.<sup>1</sup> The water had been turned off at the home, and Nault admitted using

---

<sup>1</sup>Samplawski was incarcerated at the time of the hearing and is not a part of this appeal.

methamphetamine a few days prior. She tested positive for amphetamine and methamphetamine when she was drug screened by the Department.

The circuit court entered an ex parte order of emergency custody, and upon conducting a probable-cause hearing, it found that probable cause existed for MC to remain in the Department's custody. MC was adjudicated dependent-neglected on May 12 due to parental unfitness. The circuit court established a goal of reunification and ordered Nault to comply with the standard welfare orders of the Department.

A review hearing was held on August 9, and Nault was found in partial compliance with the case plan and court orders. Specifically, she had not completed her drug-and-alcohol assessment, participated in individual counseling, or completed parenting classes.

A permanency-planning hearing was held on January 18, 2022, wherein the goal of the case was changed to adoption. Nault remained negative for methamphetamine but tested positive for alcohol. Nault was regularly attending her visitation but did not have stable housing or employment and had not participated in counseling. After the goal was changed, the Department filed a termination-of-parental-rights petition alleging the following grounds: twelve months, failure to remedy; subsequent factors; and aggravated circumstances.

The termination hearing was held on April 26, 2022. Nault testified that she had signed a twelve-month lease the Saturday before the hearing, and she had been living in the apartment for two days. She testified that she obtained employment about two months before the hearing. During the time she was unemployed, she had lived off the profits from the sale of the home she shared with Samplawski. She claimed Samplawski was pushing to

sell the house because he wanted money “put on his books.” She said she no longer had her share of the money because she also bought a car. Nault testified that she had been sober from alcohol and drugs for about three months. She admitted that she graduated from drug-and-alcohol treatment on November 3 and then tested positive for alcohol three days later. Additionally, she testified she consumed six shots of liquor the previous Monday; the same night that her then boyfriend was intoxicated and attacked her.

Carissa Stalnaker, MC’s talk and play therapist, testified that MC is currently diagnosed with other specified trauma and stress-related disorder, which is a diagnosis for those who are exhibiting some posttraumatic stress symptoms, but do not meet the full criteria for PTSD.

Holly Wood, MC’s foster mom, testified. She stated that MC had been nonverbal when he came into her family’s house, but he talks nonstop now. She testified that sometimes he gets so beside himself he cannot breathe, and he cannot communicate what is wrong. Wood testified that he alludes almost daily to some type of insecurity with his future. She expressed an interest in adopting MC.

Nicole Netherton, the family service worker since the beginning of the case, testified that the case had been open for fourteen months. She testified that Nault only partially benefited from the services the Department offered. She acknowledged that Nault completed drug treatment, and she had not tested positive for methamphetamine in over a year, but she had begun testing positive for alcohol. Thus, the Department still had concerns with Nault’s addictive behaviors. Netherton also testified that Nault moved several times

throughout the case and that the longest period of employment for Nault was maybe three months. Nethererton explained that Nault missed visits from February 8 to March 11 because of her work schedule, but Nault had not made the Department aware of the conflict. Nethererton testified that Nault has not demonstrated that she can plan for the future because she did not start services until approximately six months into the case. Last, she testified that MC is adoptable.

The court terminated Nault's parental rights. The order addressed Nault's substance abuse issue, stating in part,

Although the Court ordered a drug and alcohol assessment at the beginning of the case, the mother did not submit to an assessment until August 2021. Shortly after graduation from the abuse treatment, she used alcohol which is something she indicated she has used since High School. When the mother got a large sum of money, she turned to gambling. All of these issues are addictions and demonstrate addictive behavior. The uncontroverted evidence was that she hasn't used methamphetamine in about a year, but she has not overcome the addictive behaviors that were part of the cause of [M.C.] coming into care. So, even if the issue of methamphetamine abuse has been resolved, the addictive behaviors continue.

The court also emphasized that Nault only recently became employed and obtained housing. Last, the court's order highlighted its new concern that Nault was engaged in a violent relationship and that she had not completed the appropriate counseling sessions provided.

As to potential harm, the court found that the minor child "could regress emotionally and would lack stability," that it would take months for him to return to Nault's custody, and there was "no justification to continue this past the fourteen (14) months that have already passed."

This appeal followed.

We review termination-of-parental-rights cases de novo. *Heath v. Ark. Dep't of Hum. Servs.*, 2019 Ark. App. 255, at 5–6, 576 S.W.3d 86, 88–89. We review for clear error, and 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.* A court may order termination of parental rights if it finds clear and convincing evidence to support one or more statutory grounds listed in the Juvenile Code, Ark. Code Ann. § 9-27-341(b)(3)(B) (Supp. 2021) and that termination is in the best interest of the child, taking into consideration the likelihood of adoption and the potential harm to the health and safety of the child that would be caused by returning him or her to the custody of the parent. Ark. Code Ann. § 9-27-341(b)(3)(A).

Nault's first point on appeal challenges the court's finding that the Department proved grounds for termination. One factor the court relied on is the subsequent-factors ground, found in Arkansas Code Annotated section 9-27-341(b)(3)(B)(vii)(a). This statute provides as a ground for termination that other factors or issues arose subsequent to the filing of the original petition for dependency-neglect that demonstrate that placement of the juvenile in the custody of the parent is contrary to the juvenile's health, safety, or welfare and that, despite the offer of appropriate family services, the parent has manifested the incapacity or indifference to remedy the subsequent issues or factors or rehabilitate the parent's circumstances that prevent the placement of the juvenile in the custody of the parent.

Here, it took Nault six months to even begin services. Despite being ordered to attend individual counseling and it being a recommendation of her psychological assessment, Nault did not begin individual counseling to address her own mental health until January 2022, which was eleven months after the case was opened. She had completed only four sessions at the time of the termination hearing. See *Jennings v. Ark. Dep't of Hum. Servs.*, 2021 Ark. App. 429, at 10, 636 S.W.3d 119, 125 (“We have consistently held that eleventh-hour compliance does not have to be credited by the circuit court and does not outweigh prior noncompliance.”). Further, Nault missed a month of visitation between February and March 2022. A failure to comply with the case plan and court orders may serve as a subsequent factor on which termination of parental rights can be based. *Kugler v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 485, at 8, 656 S.W.3d 1, 6. Additionally, Nault only recently obtained employment and housing, demonstrating a lack of stability. This court has held that “[a] stable home is one of a child’s most basic needs.” *Younger v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 138, at 9, 643 S.W.3d 487, 493. Failure to comply with a case plan, along with instability, is sufficient to support termination on the subsequent-factors ground. *Id.*

Nault contends that both gambling and the use of alcohol are permitted by law and at no point was Nault ordered to refrain from either activity, so they should not be factors that necessitated the termination of her parental rights. However, she was ordered to follow the recommendations of any assessments completed. Nault completed a drug-and-alcohol assessment on August 17, 2021, and it identified addiction issues as the problem that would need to be addressed. Her counseling reports, which were admitted at trial, identified

multiple times the goal of abstinence of mood- or mind-altering substances or alcohol, so Nault was on notice that with her addiction issues, the use of alcohol could be problematic. Indeed, the circuit court found that Nault's involvement in these activities demonstrated an addictive behavior that the services were designed to help. Despite having completed twelve sessions of a treatment program for "addiction issues," she continued to display addictive behaviors.

Under these circumstances, we cannot say that the trial court clearly erred in finding that the subsequent-factors ground supported termination of Nault's parental rights. Because the court need only find one ground, we do not address her argument regarding the other ground.

Next, Nault challenges the potential-harm prong of the best-interest analysis. She fails to challenge the adoptability factor; thus, we are not required to address it on appeal. *Scroggins v. Ark. Dep't of Hum. Servs.*, 2023 Ark. App. 16, at 10, \_\_\_ S.W.3d \_\_\_, \_\_\_. In assessing the potential-harm factor, the circuit court is not required to find that actual harm would result or to identify specific potential harm. *Gonzalez v. Ark. Dep't Hum. Servs.*, 2018 Ark. App. 425, at 12, 555 S.W.3d 915, 921. Additionally, a parent's failure to comply with court orders is sufficient evidence of potential harm. *Id.* at 12–13, 555 S.W.3d at 921–22. Further, a court may consider a parent's past behavior as a predictor of future behavior. *Id.* at 12, 555 S.W.3d at 921.

Nault argues that at the time of the termination hearing, she was employed, had a home, and had achieved sobriety. However, as explained above, Nault had just moved into

an apartment three days before the termination hearing, and she lacked the financial stability to support MC on the basis of her pattern of unemployment. The circuit court was not convinced that, given Nault's demonstration of volatility and poor financial management during the case, she would have lasting housing stability. Nault's argument is essentially a request to reweigh the evidence, which we will not do. Overall, Nault was not in substantial compliance with the case plan and court orders and had more than slight lapses in judgement. The court's best-interest finding is supported.

Accordingly, we hold that the circuit court did not err in terminating Nault's parental rights.

**Affirmed.**

VIRDEN and HIXSON, JJ., agree.

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

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

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