Cite as 2009 Ark. App. 697

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA09-535

MICHELLE HENSON APPELLANT	**Opinion Delivered** October 21, 2009
V.	APPEAL FROM THE YELL COUNTY CIRCUIT COURT, [NO. JV2007-60]
ARKANSAS DEPARTMENT OF HUMAN SERVICES and MINOR CHILDREN APPELLEES	HONORABLE TERRY SULLIVAN, JUDGE AFFIRMED

WAYMOND M. BROWN, Judge

Michelle Henson appeals from the termination of her parental rights to her three daughters, CH3, born November 30, 2006; CH2, born January 20, 2003; and CH1, born December 27, 1997. In Henson's only point on appeal, she challenges the trial court's "best-interest" finding as to the children's adoptability. We affirm the trial court's decision.

DHS took emergency custody of Henson's three daughters, who have different fathers, after the State Police prompted DHS to send an investigator to the family home. Henson admitted that she was addicted to prescription medication; that there had been a few times when her children could not wake her up because of her drug use; and that, in the presence of her children, she had sexual relations with men in exchange for money and drugs. The investigator learned that Henson had not followed through with mental health services for

CH1, who is mentally challenged and on medication for ADHD; in fact, another family member dispensed CH1's medication out of concern that Henson would not give it to her or would take it herself. The Yell County Circuit Court entered an order for emergency custody of the children on September 28, 2007, and found probable cause on October 3, 2007. The court ordered DHS to refer Henson for a drug-and-alcohol assessment, and to offer her parenting classes and random drug screens. In the November 16, 2007 adjudication order declaring the children dependent-neglected, the court directed Henson to attend NA/AA meetings, and ordered DHS to continue offering her drug screens, drug-and-alcohol treatment, and parenting classes.

After the permanency-planning hearing held on September 26, 2008, the court changed the goal to termination, finding that Henson had no job; had at least three residences during this proceeding; and was testing positive for illegal drugs. It stated: "The mother needs to work the case plan, get drug free, get a home of her own, and get a job."

The court held the termination hearing on January 9, 2009, and Henson attended with her attorney. Marie Lawrence, the case worker, testified that CH3 and CH2 were placed together in a foster home, where they had done very well, and that CH1, who had some developmental delays, had recently been placed in a special foster home in Little Rock through a developmental-disabilities program run by Integrity, Inc. She stated:

> These children are adoptable. As far as my experience that would qualify me to tell you they're adoptable, other than working for the Department for 20 years as a Family Service Worker and as a Supervisor, I have been involved in numerous adoptions and terminations and these children are relatively healthy children. They are very much

> able to live in the community and they are happy children. There is nothing that would be a hindrance to someone adopting them.

Ms. Lawrence said that, although all three girls were not together in foster care, she expected to place them for adoption as a group.

On cross-examination by Henson's attorney, Ms. Lawrence discussed the children's mental and physical health. She said that CH1 and CH2 are relatively healthy, with little more than common ailments. Ms. Lawrence said that Integrity had asked that CH1 be approved for some additional therapy by an outside counselor for abandonment and attachment problems. Ms. Lawrence stated that CH3, who has asthmatic symptoms, for which she takes albuterol, was having lung-function tests; taking physical therapy for a foot problem; receiving speech therapy; and has problems with swallowing that require thickened liquids. Ms. Lawrence described CH3's problems as "minor" and said that her being biracial should not be a problem in placing her for adoption: "We have several children that are biracial that have been adopted either as a sibling group or individually with no problem." Ms. Lawrence also said that, based on other adoptions in the past, CH3's health problems should not hinder her being adopted: "In fact, Judge Sullivan, himself, has approved adoptions with children with more severe disabilities than . . . CH3's . . . ."

Erica Byrd, an adoption specialist, testified that, although she had not opened a file on the children, she had talked about them with Ms. Lawrence and was familiar with their situation. She said that, based on her personal experience with other cases, she believed that they were adoptable; that it was possible that they would be adopted together; and that CH3's

being biracial would not hinder her being adopted. She said that, in the six counties in which she functioned as the adoption specialist, she had finalized adoptions of "children a lot, lot worse off than CH3."

ShawnDell Patton, CH1's case manager with Integrity, testified that CH1 had displayed some inappropriate behaviors, most having to do with her level of functioning. The only behavior that concerned her was that, when CH1 hugged her foster father, she would try to "put her hands on his butt and things like that, but she [was] easily redirected" and there had been no major problems. Ms. Patton did not believe that CH1's having taken ADHD medication in the past would be an impediment to her adoption. She said that she was not sure if DHS had already identified an adoptive family for CH1, but in her experience, children with worse attachment disorders than CH1's had been adopted.

At the end of the hearing, the court stated that it found, by clear and convincing evidence, that the children were adoptable and that termination was in their best interests. In the February 3, 2009 order terminating Henson's parental rights, the court found that Henson continued to test positive for drugs, and still did not have a job, a place to live, or transportation, and that it would be contrary to the children's best interests, health, safety, and welfare, to return them to her. The court found clear and convincing evidence of the following grounds: (1) the children's having been in DHS's custody for twelve months without the conditions that caused removal being remedied; (2) Henson's failure to provide significant material support or maintain meaningful contact with the children; (3) and other

factors having arisen which, despite the offer of services, Henson had manifested the incapacity or indifference to remedy. The court stated that "all three juveniles are adoptable." Henson filed a timely notice of appeal.

An order terminating parental rights must be based upon a finding by clear and convincing evidence that (1) termination of parental rights is in the best interest of the child, considering the likelihood that the child will be adopted if the parent's rights are terminated and the potential harm caused by returning the child to the parent's custody, and (2) at least one ground for termination exists. *Ratliff v. Arkansas Dep't of Human Servs.*, 104 Ark. App. 355, __ S.W.3d __ (2009); *see* Ark. Code Ann. § 9-27-341(b)(3)(A) and (B) (Supp. 2009). The likelihood of a child's adoption is but one factor for the court to consider in determining the child's best interest. *McFarland v. Arkansas Dep't of Human Servs.*, 91 Ark. App. 323, 210 S.W.3d 143 (2005). There is no requirement that every factor considered be established by clear and convincing evidence. *Id.* The guiding principle is that, when all factors are considered, the evidence must be clear and convincing that termination is in the child's best interest. *Id.* Although we review termination-of-parental-rights cases de novo, we will not reverse the circuit court's finding of clear and convincing evidence unless that finding is clearly erroneous. *Ratliff, supra.*

Henson does not challenge the grounds given by the trial court for termination or the potential-harm factor of the best-interest analysis. She simply argues that the trial court's analysis of the children's best interests did not properly consider their likelihood of adoption.

She states: "The statute, while not requiring a finding that a juvenile is adoptable . . . should be construed to require an assessment of the probability that potential adoptive parents will select particular children, such as CH3, CH2 and CH1, and the likelihood that the girls will be adopted as a sibling group . . . ." She urges us to adopt a construction of the termination statute that would require the trial court to consider factors such as age and disabilities, and that would not be satisfied by "assuming that a family somewhere in the United States would be interested in adopting them." Henson states: "The trial court should determine where the juvenile falls on the spectrum of likelihood of adoption. Obviously, older children with more challenging characteristics such as extensive medical needs or emotional problems would be less likely to be adopted." Thus, she asserts, the testimony at trial was not sufficient because DHS presented no proof that there were potential adoptive parents for these particular children, and the witnesses' opinions were based upon their experience with other adoptions.

Henson, however, did not raise this issue to the trial court, so we need not consider it. *Moore v. Arkansas Dep't of Human Servs.*, 95 Ark. App. 138, 234 S.W.3d 883 (2006). Additionally, Henson cites no authority that supports her argument. We will not research or develop an argument that has no citation to authority or convincing legal argument. *Baker v. Norris*, 369 Ark. 405, 255 S.W.3d 466 (2007).

Even if we were to address the merits, neither the juvenile code nor the cases support Henson's position. In fact, we expressly rejected the identical argument in *McFarland, supra.* Further, the juvenile code does not require that, before parental rights can be terminated,

DHS must have a specific permanent placement waiting for the child; it simply states that it shall be "attempting to clear a juvenile for permanent placement." Ark. Code Ann. § 9-27-341(a)(2) (Supp. 2009).

Affirmed.

GRUBER and BAKER, JJ., agree.