

Cite as 2010 Ark. App. 444

**ARKANSAS COURT OF APPEALS**

DIVISIONS I &amp; II

No. CA09-569

BETHANY MYERS

APPELLANT

V.

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES

APPELLEE

**Opinion Delivered** May 19, 2010APPEAL FROM THE MILLER  
COUNTY CIRCUIT COURT,  
[NO. JV-2008-323-1]HONORABLE JOE E. GRIFFIN,  
JUDGESUBSTITUTED OPINION ON  
DENIAL OF REHEARING;  
AFFIRMED**KAREN R. BAKER, Judge**

On April 14, 2010, this court handed down an opinion in this case in which we affirmed the trial court's order adjudicating Bethany Myers's children dependent-neglected. Myers has filed a petition for rehearing. In response to her petition, which alleged that this court's decision contained mistakes of law and fact, we issue this substituted opinion correcting a nonmaterial mistake of fact and deny Myers's petition.

Myers and her husband, Jim, are the parents of R.M., N.M.1, M.M., J.M., E.M., and N.M.2. She appeals from the circuit court's order adjudicating her children dependent-neglected after DHS took them into custody from the Tony Alamo Christian Ministries Compound in Fouke, Arkansas, in November 2008. In the same proceeding, the circuit court

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also adjudicated the children of Don Thorne, Albert and Miriam Krantz, and Carlos and Sophia Parrish dependent-neglected. There was testimony at the adjudication hearing that Myers's daughters N.M.1 and M.M., while living in a separate residence, spent a significant amount of time in the Alamo's household, and that, at the time of the hearing, Jim was in hiding with N.M.1, M.M., and J.M. The circuit court sent Myers, who did not contest the allegations at the hearing, to jail for contempt until Jim produced the children.

All of the parents make the same arguments on appeal: that the evidence does not support the trial court's findings of dependency-neglect, and that the court violated their rights to the free exercise of their religion by ordering them to obtain and maintain housing and employment separate and apart from the ministry. In a separate opinion, we affirmed the adjudication order involving Don Thorne's children. *Thorne v. Arkansas Dep't of Human Servs.*, 2010 Ark. App. 317, \_\_\_ S.W.3d \_\_\_. For the same reasons expressed in that opinion, we affirm the part of the order finding the Myers children dependent-neglected. But, unlike the other parents, Myers did not raise the free-exercise issue below. And she agreed to the case plan in open court. Thus, we cannot reach her constitutional argument on appeal. *Broderick v. Arkansas Dep't of Human Servs.*, 2009 Ark. App. 771, at 8, \_\_\_ S.W.3d \_\_\_, \_\_\_.

Affirmed.

GLADWIN, KINARD, GRUBER, GLOVER and BROWN, JJ., agree.