ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION II

CA06-1301

May 23, 2007

ANGELIA BROWN
APPELLANT

V.

ARKANSAS DEPARTMENT OF HEALTH and HUMAN SERVICES
APPELLEE

APPEAL FROM THE JOHNSON COUNTY CIRCUIT COURT
[J-04-75]

HON. KENNETH COKER, JR., CIRCUIT JUDGE

AFFIRMED

Appellant Angelia Brown appeals from the decision terminating her parental rights to her minor child. She argues that the trial court's order should be reversed because the record did not support the trial court's findings. We disagree and affirm.

On May 28, 2004, Brown dropped her three children off at the home of an acquaintance, Loren Olsen—and left them—stating that she "could not deal with them right now." After three days, Mr. Olsen called the police department because he could no longer care for the children. After several unsuccessful attempts to find Brown, DHHS took a seventy-two-hour hold on the children, alleging that they had been abandoned by their mother. After being taken into DHHS custody, the children revealed that while in their mother's care they were often forced to go without food. They could not understand why their mother had

sufficient funds to stay at bars all night, but not enough money to feed them. On June 2, 2004, an emergency order was entered, placing custody of the children in DHHS until an adjudication hearing could be held.

On July 1, 2004, the children were adjudicated dependent/neglected. The trial court determined that the goal of the case would be reunification and directed DHHS to develop a case plan outlining the "objectives and tasks" related to achieving the stated goal. The court specifically ordered Brown to participate in individual counseling, obtain and maintain gainful employment and suitable housing, submit to a drug and alcohol abuse assessment, and attend and complete parenting classes. However, on August 4, 2005, the court changed the goal of the case relating to Brown's youngest child, L.M., from reunification to termination based on Brown's failure to comply with the case-plan directive. A termination hearing was scheduled for January 17, 2006.

Following this hearing, the trial court entered an order on May 5, 2006, terminating Brown's parental rights to L.M. after it found that Brown had not completed court-ordered substance-abuse treatment; that she had refused outpatient treatment until the termination petition was filed; that she failed to establish a stable home; and that she neglected to maintain visitation with the minor child for weeks at a time. Based on these findings—coupled with evidence that the child had continued out of his mother's home for over twelve months and there was a great likelihood that he would be adopted—the court concluded that clear and

convincing evidence established that it was contrary to the best interests, health and safety, and welfare of L.M. to return him to his mother. It is from this order that Brown appeals.

Parental-rights termination cases are reviewed de novo on appeal. *Dinkins v. Ark. Dep't of Human Servs.*, 344 Ark. 207, 40 S.W.3d 286 (2001). An order terminating parental rights must be based on clear and convincing evidence. *Id*.; Ark. Code Ann.§ 9-27-341(b)(3) (Repl. 2002). In reviewing the trial court's evaluation of the evidence, an appellate court will not reverse unless the trial court's finding of clear and convincing evidence is clearly erroneous. *Baker v. Ark. Dep't of Human Servs.*, 340 Ark. 42, 8 S.W.3d 499 (2000). Clear and convincing evidence is that degree of proof that will produce in the fact finder a firm conviction regarding the allegation sought to be established. *Id*. In resolving the clearly erroneous question, we must give due regard to the opportunity of the trial court to judge the credibility of witnesses. *Id*. Additionally, in matters involving the welfare of young children, the appellate court gives great weight to the trial judge's personal observations. *Ullom v. Ark. Dep't of Human Servs.,* 340 Ark. 615, 12 S.W.3d 204 (2000).

On appeal, Brown argues that although she "did not offer documentary proof that she had maintained sobriety as of October 2005, or that she was in counseling, [DHHS] abandon[ed her] after [the permanency planning hearing] and wholly failed to verify compliance with the case plan during that time because of lack of contact with her." She also

contends that the "trial court failed to adequately consider the adoptability of L.M." in violation of Arkansas law.

The record belies Brown's assertions of error and shows that she was extremely deficient in her case-plan compliance, particularly in the areas relating to her substance-abuse problem. We are most concerned with the fact that Brown failed to correct the fundamental deficiency that caused her child to be taken into DHHS custody in the first place—her lack of sobriety. The only proof of Brown's continued sobriety was her own self-serving testimony, while empirical evidence was presented establishing that she dropped out of treatment based on her desire to continue drinking. Additionally, there was evidence showing that Brown had lived in nine different places during the pendency of the case, and although she had lived with the same man (a convicted felon) for the three months preceding the termination hearing, there was no proof that she had established an independent, safe, and stable home in which she and her son could reside. Finally, both families who had fostered L.M. testified that he was highly adoptable and was interested in being adopted.

Based on the record before us, we conclude that the trial court's findings of fact relating to its decision to sever Brown's parental rights to L.M. were supported by clear and convincing evidence and did not violate any statutory mandate relating to termination proceedings.

Affirmed.

MARSHALL and HEFFLEY, JJ., agree.