

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
ROBERT J. GLADWIN, JUDGE

DIVISION III

CA07-1183

APRIL 30, 2008

PATRICIA COMBS and ALEX COMBS  
APPELLANTS

APPEAL FROM THE CRAIGHEAD  
COUNTY CIRCUIT COURT  
[NO. JV2006-281]

V.

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES

HON. LARRY BOLING,  
JUDGE

APPELLEE

AFFIRMED

Appellants Patricia and Alex Combs appeal from the termination of their parental rights in TC (born October 6, 2000), HC (born January 17, 2003), AC1 (born January 17, 2003), AC2 (born January 5, 2004), and AC3 (born December 7, 2005). Patricia additionally appeals from the termination of her parental rights in JR (born January 8, 1993) and MV (born January 14, 1995). Appellants argue that the evidence was insufficient to support termination. We disagree and affirm.

On June 12, 1997, the Arkansas Department of Human Services (DHS) opened its first protective-services case on appellants' family. DHS made two true findings against Patricia for failure to protect JR and MV and one true finding against Patricia and Alex for substantial

possibility of child maltreatment during the pendency of the case.<sup>1</sup> Appellants received numerous services during this time, including homemaker services, medication management (JR was receiving psychotropic medication), and parenting classes. The case was closed on February 28, 2000.

On December 10, 2001, DHS opened a second protective-services case based on educational neglect. According to a DHS witness, one of the children missed twenty-three-and-one-half days of school. DHS closed the case on March 14, 2002.

DHS opened a third protective-services case on November 24, 2004, after JR reported that his parents inflicted bruises and abrasions on him. His accusation was not substantiated, so the offender was listed as unknown. However, on October 7, 2005, DHS made a true finding of Patricia's physical abuse of MV and another child not involved in this case. DHS again provided numerous services, including daycare, medication management, parenting, transportation, and homemaker/house-cleaning skills.

The situation that led to the children's removal from appellants' home occurred during the third protective-services case. The following story was recounted by DHS County Supervisor Terri Blanchard at the termination hearing. On June 8, 2006, two DHS workers visited appellants' home at separate times and reported to Blanchard that things "had really gotten bad." Blanchard went to the home late that afternoon with caseworker Rashele Wade and found the seven children, who ranged from infancy to thirteen years of age, home alone. The older boys, thirteen-year-old JR and eleven-year-old MV, exhibited mental and

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<sup>1</sup> DHS also made several true findings of inadequate supervision, physical abuse, or lockout of JR or MV by unknown offenders, relatives, or third persons.

emotional problems. Blanchard and Wade observed the younger children screaming and banging on a broken window as though they were trying to get out of the house. MV would not let Blanchard and Wade inside, and Blanchard called the police. About twenty minutes later, Patricia Combs arrived after being gone for an unknown period (she was home earlier in the day when the two DHS workers visited). Patricia first told Blanchard that her brother was staying with the children, but she later admitted that was not true. She allowed Blanchard to enter the house, and Blanchard discovered conditions that were unsanitary to the point of being hazardous. Clothing and food were all over the beds and floors. The beds had no sheets. A commode was not working; it had a beer bottle in it and was full of human waste. Rotten, moldy food was on the stove and counter tops. When Blanchard opened the refrigerator, she found open food with bugs and maggots. There were beer and liquor bottles throughout the house and in the yard. The children were also filthy. The younger ones had full diapers that had not been changed in a while.

Blanchard tried to work out a plan with Patricia to take the children to Patricia's mother's house. However, Alex Combs arrived about this time and became angry. He cursed Blanchard and Wade, threatening to kill them. Alex then went inside the house and shut the door with Patricia and the children inside. Blanchard heard things being thrown around. The children were screaming that they wanted out and were afraid. Blanchard and Wade managed to get the door open, get the children out, and lock them in the police cars. Appellants refused to give Blanchard car seats, medications, clothing, or any information about the children. The children were taken to the DHS office and cleaned up. MV was hysterical

during this time and TC was afraid, telling the DHS workers that Alex had a gun and would kill them.

Approximately one month after the children's removal, DHS made a true finding that JR and MV had been sexually abusing the three girls, TC, AC1, and AC2, for some time. Blanchard testified that the abuse occurred when the children were living with appellants.

Based on the incidents of June 8, 2006, DHS placed a seventy-two-hour hold on the children and petitioned for emergency custody. The circuit court granted custody to DHS and adjudicated the children dependent-neglected on August 1, 2006, finding that they were inadequately supervised to the extent that they were at "imminent and significant risk of severe maltreatment." Custody remained with DHS, and the court reserved a ruling on the goal of the case.

After the children were placed in foster care, appellants visited them regularly. Caseworker Amanda Clark described the visitations as "wild," with the children not minding their parents. Clark said that, when she tried to discuss something with appellants, they would "stare a hole" through her and not acknowledge that she had spoken. They asked her at some point what they could do to get the children back. She explained that DHS would probably proceed with termination of parental rights.

On October 2, 2006, DHS filed petitions to terminate appellants' parental rights and to be relieved of providing reunification services. The court relieved DHS from providing reunification services on February 22, 2007, finding that there were "no services available to offer to the parents to maintain the children in a safe environment were they to be returned

to the home.” The court stated that the goal of the case would be termination of parental rights.

At the termination hearing, the court heard the above mentioned testimony from Blanchard and Clark, plus Clark’s testimony that DHS had provided all conceivable services to appellants and she could recommend no others. Clark also said DHS had a plan for adoption of the five younger children and planned to actively seek a placement for MV, who was in a foster home. JR was in the State Hospital in Little Rock and, according to Clark, would qualify for services until he was eighteen. Several of appellants’ relatives and friends testified that appellants were good parents and generally kept their house clean, though not spotless because there were seven children living there. Some witnesses said that they had never seen beer cans around the house or yard, and others testified that somebody was always at home to supervise the children.

Alex Combs testified that he attended anger-management classes on the advice of his attorney, though he did not think he needed them. He also said he had taken parenting classes, which he completed in 2005. Alex introduced photographs of his and Patricia’s house, showing that it had been cleaned up following the children’s removal. He denied threatening DHS workers on June 8 and pointed out that he was not arrested even though police officers were present. An affidavit from one of the officers was admitted without objection, and it stated that the officer did not observe Alex making any threats to DHS workers or engaging in any other criminal activity. Patricia Combs did not testify.

On July 26, 2007, the trial court entered a detailed order terminating Alex and Patricia Combs’s parental rights in TC, HC, AC1, AC2, and AC3 and Patricia Combs’s parental rights

in JR and MV.<sup>2</sup> The court found that termination was in the children's best interest and that grounds for termination existed, including that appellants subjected the children to aggravated circumstances based on there being little likelihood that services would result in successful reunification. This appeal followed.

Parental rights may be terminated if clear and convincing evidence shows that it is in the children's best interest. Ark. Code Ann. § 9-27-341(b)(3) (Repl. 2008). Additionally, one or more statutory grounds must be shown by clear and convincing evidence. *Smith v. Ark. Dep't of Human Servs.*, 100 Ark. App. 74, \_\_\_ S.W.3d \_\_\_ (2007). Clear and convincing evidence is that degree of proof that will produce in the fact finder a firm conviction as to the allegation sought to be established. *Pierce, supra*. When the burden of proving a disputed fact is by clear and convincing evidence, the question on appeal is whether the trial court's finding that the disputed fact was proven by clear and convincing evidence was clearly erroneous. *Id.* In resolving the clearly erroneous question, we give due regard to the opportunity of the trial court to judge the credibility of witnesses. *Id.* Where there are inconsistencies in the testimony presented at a termination hearing, the resolution of those inconsistencies is best left to the trial judge, who heard and observed the witnesses first-hand. *Id.*

Appellants argue that their parental rights were terminated based on one isolated incident when the children were left alone for twenty minutes. However, the children were not removed simply because they were alone in the house on one occasion. The house was in a state of total uproar and was in a condition so vile as to be dangerous. The children

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<sup>2</sup> The parental rights of MV's biological father were also terminated. The parental rights of JR's biological father were not terminated, but the court maintained JR in DHS custody.

themselves were also filthy. These conditions existed despite DHS's provision of parenting classes and housekeeping instruction and supplies to appellants over the past several years. See *Yarborough v. Ark. Dep't of Human Servs.*, 96 Ark. App. 247, 240 S.W.3d 626 (2006) (affirming termination of parental rights in part where the parents showed little prospect for improvement despite several protective-services cases being opened and DHS's provision of services). Furthermore, Alex Combs cursed and threatened the lives of the DHS workers on June 8, 2006, then went into the house, where he created such a commotion that the children began screaming in fear. One child told DHS workers after she was removed from the house that she feared Combs would shoot them. This violent behavior is disturbing enough standing alone but even more so given Alex's testimony that he did not think he needed anger-management classes. Additionally, appellants failed to cooperate with DHS workers at the scene and later when the workers tried to speak to them.

There was also evidence that Patricia Combs committed physical abuse, educational neglect, or child maltreatment over the course of these protective-services cases. See *Yarborough, supra*. The evidence at the termination hearing showed little prospect for improvement. Terri Blanchard testified that Patricia said that she was "too damn tired" to get her children to the daycare bus. A DHS court report also expressed concern that Patricia did not give JR his medication properly and that she punished one of the girls when the child reported to her that the older boys had abused her.

Appellants argue that, once the children were removed, DHS made no effort to work with them or provide services. DHS provided numerous services to appellants off and on for nearly ten years. Yet, these services apparently had little effect. By June 8, 2006, appellants'

home environment and parental conduct reached a point that the children's health, safety, and welfare were in danger if they were not removed. DHS workers testified that they could think of no other services to offer appellants.

Appellants also argue that termination was not in JR and MV's best interest because there was little likelihood of adoption. As required by Ark. Code Ann. § 9-27-341(b)(3)(A) (Repl. 2008), the circuit court considered the likelihood of the children's adoption in assessing their best interests. Amanda Clark testified that DHS would actively seek adoption for MV, who was in foster care. The court found that MV was adoptable but acknowledged that JR's prospects for adoption were "not very high." However, JR was a patient at the State Hospital, and Amanda Clark testified that he would qualify for services. Moreover, the parental rights of JR's biological father, Jessie Randall, were not terminated, and Randall testified that he would be willing to take JR into his home.

Given the evidence at the termination hearing, we cannot say that the trial court clearly erred in ruling that termination was in the children's best interest and that there was little likelihood that services to the family would result in successful reunification. Ark. Code Ann. § 9-27-341(b)(3)(B)(ix)(a)(3)(A) and (B)(i) (Repl. 2008). *See also Smith, supra; Yarbrough, supra.*

The trial court's order terminating appellants' parental rights is affirmed.<sup>3</sup>

Affirmed.

GRIFFEN and BAKER, JJ., agree.

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<sup>3</sup> The ad litem's ask us to dismiss the appeal for lack of a timely notice of appeal. We denied the ad litem's motion on December 12, 2007, and see no need to revisit our ruling.