

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SAM BIRD, JUDGE

DIVISION IV

CA07-1271

MAY 7, 2008

DEBBIE GRANADOS AND JOSE
GUADALUPE GRANADOS
APPELLANTS

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT
[NO. JV2006-0465]

V.

HON. LARRY B. BOLING, JUDGE

ARKANSAS DEPARTMENT OF
HUMAN SERVICES AND MINOR
CHILD

APPELLEES

AFFIRMED

Appellants Debbie Granados (Mother) and Jose Guadalupe Granados (Father) bring this appeal from an order of Craighead County Circuit Court terminating their parental rights to their son J.G. They argue that there was insufficient evidence to support the circuit's decision. We disagree, and we affirm.

J.G., who was born December 29, 2001, was taken into foster care by appellee Arkansas Department of Human Services (DHS) on December 1, 2006, on an emergency basis. According to the affidavit filed with the petition for emergency custody, J.G. had been taken to the hospital because of "major bruising" on his face inflicted by Mother's boyfriend. In addition, a DHS visit to the home revealed unsanitary and unsafe conditions, including holes in the ceiling and porch and dried animal feces on the floors. The affidavit also noted that there was very little food in the house and that the kitchen was messy. J.G. was dirty,

reeked of urine, and had not bathed in a few days. The court entered its emergency order granting custody of J.G. to DHS on December 7, 2006.

The court later found probable cause for entry of the emergency order. J.G. was found to be dependent-neglected in an order filed January 18, 2007. The parents were ordered to submit to psychological evaluations and follow the therapists' recommendations; to complete parenting classes and counseling; to obtain and maintain safe housing; to submit to random drug screens; and to watch "The Clock Is Ticking" video.

On June 22, 2007, DHS moved to be relieved from providing further reunification services to the parents, asserting that there was little likelihood that such services would result in a successful reunification. The court held a hearing on the motion, as well as a permanency-planning hearing, on July 13, 2007. By order entered on September 27, 2007, the court found that, because of the parents' noncompliance with the case plan, there was little likelihood of a successful reunification. As a result, the goal of the case plan was changed to termination of parental rights and adoption of J.G. The court found that Mother had partially complied with the case plan in that she had completed parenting classes and obtained stable housing. However, she had not complied with other parts of the case plan in that she had not completed a psychological evaluation, not consistently participated in visitation, and not remedied the conditions in the home. The court found that Father had not done anything to comply with the case plan.

DHS filed the petition for termination of parental rights on August 26, 2007. The petition alleged two grounds: (1) that there were other issues that arose subsequent to the

filing of the original dependency-neglect petition that demonstrate that return of the child to the parents is contrary to the child's health, safety, and welfare and that, despite appropriate family services, the parents have manifested the incapacity or indifference to remedy the issues; and (2) that the child had been subjected to aggravated circumstances in that the court found that there was little likelihood that services to the family would result in a successful reunification of the child with his parents.

At the September 27, 2007, termination hearing, Stacey Harvey, the DHS caseworker assigned to the case, testified about the abuse the child had suffered, the services that had been offered to appellants, and the adoptability of J.G. She also testified that both parents had missed their psychological evaluations and that Father did not attend counseling. She attributed part of Father's noncompliance to the fact that he spoke no English and had trouble reading Spanish. She recommended that parental rights be terminated. Harvey testified that Mother had completed parenting classes, obtained proper housing, and passed random drug screens but that she had not been consistent in her visitation with J.G. and had lied about the need to reschedule visits. She opined that Mother did not understand the severity of what happened to J.G. when he entered foster care. Harvey said that Father missed most of his visits because of his work schedule. She also said that DHS offered parenting classes in Spanish and that Father took one class.

Mother testified that she was receiving SSI for a mental disability. She said that she wanted to regain custody of J.G. and that she was not responsible for hurting him. She said that, although she and Father were separated, they had discussed regaining custody of J.G. and

becoming a family again. She asserted that she had done everything DHS asked of her—completed her parenting classes, watched a video as ordered, and submitted to drug screens. On cross-examination, she had trouble recalling that DHS had an earlier case involving her family from 2002 until 2006.

Father testified that he was willing to reconcile with Mother so that they could raise J.G. together. He said that he watched videos in English and Spanish and that DHS gave him a Spanish-language booklet but that he could not read Spanish. He said that DHS asked him to watch only one parenting-class video and that DHS never asked him to go to counseling. He said that he missed two visits with J.G. because he was working late.

The court ruled from the bench and granted the petition as to both parents. In its order, the court found that J.G. was adoptable and that it was in his best interests for the termination to be granted. The court also found that Mother had complied with the case plan in some respects but had not obtained a psychological evaluation or consistently participated in visitation. The court found that Father had not complied with the case plan. As grounds for termination, the court found that DHS had provided services to the parents but that they were indifferent in remedying the situation causing removal and that the parents had subjected J.G. to aggravated circumstances. An express determination was made that neither parent was credible. This appeal followed.

We review termination of parental rights cases de novo. *Yarborough v. Arkansas Dep't of Human Servs.*, 96 Ark. App. 247, 240 S.W.3d 626 (2006). The grounds for termination of parental rights must be proven by clear and convincing evidence. *Id.* When the burden of

proving a disputed fact is by clear and convincing evidence, the question on appeal is whether the circuit court's finding that the disputed fact was proved by clear and convincing evidence is clearly erroneous, giving due regard to the opportunity of the circuit court to judge the credibility of the witnesses. *Id.*

For their sole point on appeal, the parents argue that there is insufficient evidence to support the circuit court's decision that termination was in the child's best interests. Specifically, they argue that they were not given enough time to remedy the conditions because J.G. had been out of the home for less than twelve months and that they had disabilities and language barriers that hindered their progress.

As noted, DHS alleged two grounds for termination: the "subsequent issues" ground found in Ark. Code Ann. § 9-27-341(b)(3)(B)(vii) and the "aggravated circumstances" ground found in section 9-27-341(b)(3)(B)(ix)(a)(3). The circuit court found that both grounds had been proven. Only one ground is necessary to terminate parental rights. *Albright v. Arkansas Dep't of Human Servs.*, 97 Ark. App. 277, ___ S.W.3d ___ (2007). We need not discuss the parents' argument as to the "subsequent issues" ground because there is sufficient evidence to support the circuit court on the "aggravated circumstances" ground.

"Aggravated circumstances" are defined in Ark. Code Ann. § 9-27-303(6)(A) as meaning: "A child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, or sexually abused, or a determination has been made by a judge that there is little likelihood that services to the family will result in successful reunification[.]" Both prongs of this definition have been met. First, it is undisputed that Mother's boyfriend inflicted serious

injuries to J.G.'s head and face requiring him to be taken to the hospital. This would qualify as "extreme cruelty" under the statutory definition of "aggravated circumstances." The parents do not address the injuries inflicted upon J.G. or whether they would constitute "aggravated circumstances." They assert that they could not have appealed the order terminating reunification services so that they could not appeal the court's finding concerning aggravated circumstances. However, they could have filed a notice of appeal once that order was entered on the day of the termination hearing. They also could have designated that order as one being appealed in the notice of appeal filed following the termination order.

Second, the circuit court made a determination that there is little likelihood that services to the family would result in a successful reunification. A finding that there was little likelihood of a successful reunification is not clearly erroneous where the parents consistently fail to comply with the case plan and the court's orders. *Trout v. Arkansas Dep't of Human Servs.*, 359 Ark. 283, 197 S.W.3d 486 (2004). Father did not obtain a psychological evaluation, participate in counseling, or complete parenting classes, as ordered by the circuit court. Mother was not consistent in her visitation, which upset the child.

The parents do not challenge the findings that J.G. was adoptable or that he was likely to be adopted if the termination were granted. They also do not address the statutory requirement that the court consider the potential harm to J.G. that might result from continued contact with the parent. The circuit court's findings as to these points are not clearly erroneous.

Affirmed.

GLOVER and BAKER, JJ., agree.