

DIVISION II

CA07-668

November 28, 2007

CHRIS DIXON & KAREN HUFFMAN
APPELLANTS

APPEAL FROM THE GREENE
COUNTY CIRCUIT COURT
[JV-03-57]

V.

ARKANSAS DEPARTMENT OF
HEALTH & HUMAN SERVICES and
MINOR CHILDREN

HONORABLE BARBARA HALSEY,
CIRCUIT JUDGE

APPELLEES

AFFIRMED

Appellants, Karen Huffman and Chris Dixon, appeal from the terminations of their parental rights to C. D. (DOB 10-25-00) and K. D. (DOB 4-11-03). We affirm both terminations.

Standard of Review

The standard of review in cases involving the termination of parental rights is well established. Arkansas Code Annotated section 9-27-341(b)(3) (Supp. 2005) requires an order terminating parental rights to be based upon clear and convincing evidence. *Williams v. Arkansas Dep't of Health & Human Servs.*, ____ Ark. App. ____, ____ S.W.3d ____ (May 23, 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. *Id.* When the burden of proving a disputed fact is by clear and convincing

evidence, the question that must be answered on appeal is whether the trial court's finding that the disputed fact was proven by clear and convincing evidence was clearly erroneous. *Id.* A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been made. *Id.* Such cases are reviewed *de novo* on appeal. *Id.* However, appellate courts do give a high degree of deference to the trial court, as it is in a far superior position to observe the parties before it and to judge the credibility of the witnesses. *Id.*

When the issue is one involving the termination of parental rights, there is a heavy burden placed upon the party seeking to terminate the relationship. *Williams, supra.* Termination of parental rights is an extreme remedy in derogation of the natural rights of the parents. *Id.* Nevertheless, parental rights will not be enforced to the detriment or destruction of the health and well-being of the child. *Id.* Parental rights must give way to the best interest of the child when the natural parents seriously fail to provide reasonable care for their minor children. *Id.*

Huffman

For her sole point of appeal, appellant Karen Huffman contends that there was not sufficient evidence to support the trial court's finding that it was in the children's best interest to terminate her parental rights. In making that argument, her primary contention is that the best interests of the children would be better served by granting permanent relative custody to the children's maternal grandfather; that she could then receive the

help she needs to deal with her dependence on drugs; and that such a solution was more appropriate and less extreme.

A major problem with Huffman's argument is that neither she nor her father filed any motions seeking the permanent relative custody that she now proposes. The issue before the trial court was whether to terminate the parental rights. If the maternal grandfather wanted to seek custody, he needed to make that desire known to the court. Huffman additionally contends that her parental rights should not have been terminated because these children would then not be able to visit their half-siblings. She did not preserve this issue for our review either because it was not raised to the trial court.

We find that the evidence supporting the termination of Huffman's parental rights is sufficient. Huffman had been involved with the Department of Health and Human Services since at least 1998. In the period 2003-04, the children were out of the home for approximately twelve months. They were subsequently out of the home again for fourteen months. Huffman lapsed in and out of drug use throughout this entire period, during which time her children were neglected. She skipped visits with the children after they were placed in foster care. She never maintained a stable residence. She presented no convincing circumstances to show that her situation was going to improve, and her unfulfilled promises to the children that she would be back with them caused them anxiety. Finally, the children were doing well in their foster home. We are not left with a definite and firm conviction that a mistake has been made.

Dixon

Appellant Chris Dixon also contends that the trial court erred in terminating his parental rights. We disagree.

Dixon's parental status was never established. Even putative fathers must demonstrate that they have had significant contacts with the children before their parental rights attach. Ark. Code Ann. § 9-27-341 (Supp. 2005). Dixon was sent to prison in 2003 and had no significant contact with the children from that point forward.

In addition, even Dixon concedes that at least one statutory ground for termination was established: his parental rights to his older children had previously been terminated. Consequently, he only challenges the trial court's determination that it was in the children's best interests to terminate his "parental" rights. He makes that argument despite the fact that he did not establish paternity; that he was imprisoned in 2003 for a ninety-month sentence (7.5 years); that he has had no contact with the children since that time; and that they would be held in limbo while he finished his prison term and thereafter established a stable home for them. We are not left with a definite and firm conviction that a mistake has been made.

Affirmed.

HART and MILLER, JJ., agree.