

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-268

LYLA BENEDICT,

APPELLANT

v.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEE

Opinion Delivered 25 June 2008

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT
[NO. J04-306-3]

THE HONORABLE STACEY A.
ZIMMERMAN, JUDGE

AFFIRMED

D.P. MARSHALL JR., Judge

This termination-of-parental-rights case returns to us. The circuit court first terminated Lyla Benedict's parental rights in 2005 after she had suffered a severe psychotic episode while caring for her three sons, GB, TB, and DB. We reversed for more reunification services. *Benedict v. Ark. Dep't of Human Servs.*, 96 Ark. App. 395, 242 S.W.3d 305 (2006). On remand, Judge Zimmerman carefully integrated Benedict back into her children's lives through supervised visitation, mental-health, parenting, and housekeeping services. The circuit court then restored custody of the two older boys to her. Within weeks, Benedict experienced another psychotic episode. The children returned to foster care. The court eventually terminated Benedict's parental rights a second time. Benedict appeals again, and this time we affirm the termination.

Benedict first challenges the circuit court’s finding that termination was in her sons’ best interest. She argues that the Department of Human Services did not produce sufficient proof of the children’s likelihood of adoption and the potential harm in returning them home—two things a court must consider in assessing the children’s best interest. Ark. Code Ann. § 9-27-341(b)(3)(A) (Repl. 2008).

There was ample proof of both factors before the circuit court. A DHS caseworker’s testimony supports the court’s finding that the children were highly adoptable. Our law does not require testimony from an adoption specialist, as Benedict contends. The court also heard evidence that the older boys’ 2007 reunion with Benedict created a stressful situation and increased her mental-health problems, culminating in a second psychotic episode. Testimony that Benedict stopped taking her medication and did not believe she needed psychological help revealed the added potential for harm in returning the boys to her.

In our *de novo* review, we also consider one of the purposes of our termination statute. *Dinkins v. Ark. Dep’t of Human Servs.*, 344 Ark. 207, 213, 40 S.W.3d 286, 291 (2001). This law aims for permanency in a child’s life where a return to the family home is contrary to his health, safety, and welfare and the evidence shows that returning home cannot be accomplished in a reasonable period of time from the child’s perspective. Ark. Code Ann. § 9-27-341(a)(3). These boys—now ages nine, six, and four—have been in foster care for four years except for the brief period the older boys

spent with their mother in 2007. The youngest child was one-month old when he came into DHS custody. Since then, his only contact with Benedict was during weekly supervised visits during about half of 2007. As the circuit court concluded, the time has come for these children to benefit from a permanent, stable living situation, which their mother cannot provide despite having received intensive services from DHS. *Camarillo-Cox v. Ark. Dep't of Human Servs.*, 360 Ark. 340, 355, 201 S.W.3d 391, 400 (2005).

Benedict also challenges the circuit court's grounds for termination. The court found three grounds, but only one must be proved. Ark. Code Ann. § 9-27-341(b)(3)(B). We see no error in the circuit court's conclusion that clear and convincing evidence proved the ground for termination in Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a).

The three boys were adjudicated dependent-neglected in 2004 and remained out of Benedict's custody for more than twelve months. Benedict's unstable mental health, her failure to maintain a clean and safe home, and her inability to supervise the children led to their removal in 2004 and the first termination order in 2005. After our remand, DHS provided services that allowed Benedict to regain custody of the two older boys in May 2007. But the next month, the circuit court removed the children when Benedict exhibited paranoid behavior and lost touch with reality while caring for them. The court's later orders cited Benedict's failure to maintain a clean and safe home,

along with her failure to put what she had heard in parenting classes into practice. Thus the conditions that caused the boys' removal in 2004 were not remedied by 2007 despite DHS providing services.

Benedict maintains that her substantial compliance with the case plan and court orders weighs in her favor. It does; but the circuit court did not clearly err by finding that Benedict's substantial compliance was outweighed by the evidence that she is incapable of caring for her children. *Wright v. Ark. Dep't of Human Servs.*, 83 Ark. App. 1, 7, 115 S.W.3d 332, 335 (2003). Nor does her assertion that she received a psychological, rather than a psychiatric, evaluation in early 2007 warrant reversal. She was under psychiatric care during part of 2007. As the circuit court concluded, DHS provided sufficient referrals for mental-health services, parenting services, counseling services, budgeting services, and housekeeping services to constitute the meaningful rehabilitation effort required by Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a).

Affirmed.

BIRD and GLOVER, JJ., agree.