

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-643

CLAUDIA MENDOZA

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEES

Opinion Delivered December 10, 2008

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT,
[NO. J2006-1073-D/N]

HONORABLE JAY T. FINCH, JUDGE

SUBSTITUTED OPINION;
AFFIRMED; MOTION GRANTED

KAREN R. BAKER, Judge

On March 11, 2008, the Benton County Circuit Court entered an order terminating Claudia Mendoza's parental rights to her two children, J.V.M, born November 8, 2003; and J.M.M., born January 23, 2006. Her attorney has filed a motion to withdraw and a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004) and Ark. Sup. Ct. R. 4-3(j)(1). Counsel's brief discussed the sufficiency of the evidence to support the termination order and asserted that there were no adverse rulings made at trial.

Mendoza filed a pro se response to counsel's brief, questioning whether the circuit court could terminate her parental rights because she is a citizen of Mexico. She also questions whether the termination was in her children's best interests. Neither point has merit. In *Johnson v. Eisentrager*, 339 U.S. 763 (1950), the Court stated that it was the alien's presence within a state's territorial jurisdiction that gave the state court the power to act over the alien. Here,

Mendoza was unquestionably within the territorial confines of Benton County and subject to the jurisdiction of the Benton County Circuit Court.

Mendoza next argues that the termination is not in the children's best interests. She asserts that she has improved herself and learned skills that would enable her to be a better parent. Evidence that a parent begins to make improvement as termination becomes more imminent will not outweigh other evidence demonstrating a failure to comply and to remedy the situation that caused the children to be removed in the first place. *See Lewis v. Arkansas Dep't of Human Servs.*, 364 Ark. 243, 217 S.W.3d 788 (2005); *Camarillo-Cox v. Arkansas Dep't of Human Servs.*, 360 Ark. 340, 201 S.W.3d 391 (2005). Here, the other factors include the failure to attend counseling, parenting classes, or NA/AA meetings or to enter drug treatment until immediately before her incarceration.

After carefully examining the record, we find that counsel has complied with the requirements established by the Arkansas Supreme Court for no-merit termination cases, and we hold that the appeal is wholly without merit. We hold that the circuit court's decision to terminate Mendoza's parental rights was not clearly erroneous. Accordingly, we grant counsel's motion to withdraw and affirm the order terminating Mendoza's parental rights.

Affirmed.

BIRD and MARSHALL, JJ., agree.