Cite as 2011 Ark. App. 632

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA11-657

	Opinion Delivered October 26, 2011
JENNIFER JONES and ERICK JONES APPELLANTS	APPEAL FROM THE WASHINGTON COUNTY CIRCUIT COURT [NO. JV-2010-734-3]
V.	HONORABLE STACEY ZIMMERMAN, JUDGE
ARKANSAS DEPARTMENT OF HUMAN SERVICES APPELLEE	AFFIRMED

ROBIN F. WYNNE, Judge

Appellants Jennifer and Erick Jones appeal from an order terminating their parental rights in J.J., age two. We affirm.

The Arkansas Department of Human Services (DHS) placed a seventy-two-hour hold on J.J. shortly after his birth. The mother, appellant Jennifer Jones, tested positive for amphetamines at the time of delivery, and the child's meconium tested positive for amphetamines and methamphetamine. On September 20, 2010, DHS obtained emergency custody of J.J., and the circuit court later found probable cause for his removal and adjudicated him dependent-neglected. The parents were directed to, among other things, submit to random drug screens; refrain from using illegal drugs; begin weekly counseling by December 10, 2010; maintain stable housing and employment; and demonstrate the ability to protect the juvenile and keep him safe from harm.

On November 19, 2010, the same day as the adjudication hearing, the court held a permanency-planning hearing and a hearing on DHS's petition to terminate reunification services. The court found that Erick Jones's visitation had been suspended due to a positive drug test, that both parents had informed DHS that they did not need services, and that both parents' rights had been terminated in five other children. The court established a goal of termination of parental rights and relieved DHS from providing further reunification services, noting that appellants had received numerous services in other dependency-neglect cases. Records from those cases reflected that appellants consented to the termination of their parental rights in two children in 2003 and that their rights were involuntarily terminated in three more children in 2010. The latter case, like this one, involved a child who tested positive for drugs at birth.

At the termination hearing, caseworker Tara Marcom testified that DHS had provided services to appellants over the past ten years but that appellants did not utilize many of the services and failed to comply with the case plans. Marcom said that she was unaware of any additional services that would benefit appellants. She further testified that appellants visited J.J. during the case and maintained stable housing but did not attend counseling as ordered. She also said that Jennifer Jones passed all of her drug screens, after initially testing positive for amphetamines at the time of J.J.'s birth, but that Erick Jones tested positive for drugs during the case, despite having undergone drug treatment in a previous dependency-neglect proceeding.

Appellants testified that they had not used drugs during the case, regardless of the outcomes of their drug tests. Jennifer Jones did admit to using drugs in the past and stated that drugs were a factor in the termination of her parental rights in her other five children. She testified that she had never undergone drug treatment. With regard to counseling, Jones stated that she had tried to attend but stopped going when she learned that the provider was not a licensed counselor.

On April 11, 2011, the court entered an order terminating appellants' parental rights. The court found that termination was in J.J.'s best interest and that several statutory grounds were proved by clear and convincing evidence. Appellants filed this appeal.

An order forever terminating parental rights must be based on a finding by clear and convincing evidence that termination is in the child's best interest and that one or more statutory grounds for termination exist. Ark. Code Ann. § 9-27-341(b)(3)(A), (B) (Supp. 2011). We review termination-of-parental-rights cases de novo and do not reverse the circuit court's findings unless they are clearly erroneous. *Jessup v. Ark. Dep't of Human Servs.*, 2011 Ark. App. 463, ___ S.W.3d ___.

In this appeal, appellants argue that the circuit court was motivated by a "zeal to throw the book" at them, as demonstrated by the court's relying on grounds not pled in the termination petitions; altering the wording of one ground; and incorrectly stating the facts pertaining to another ground. We agree that mistakes were made as to the grounds recited in the termination order. We decline, however, to reverse the order.

The court found that termination was in the best interest of the child, and appellants do not challenge the sufficiency of the evidence to support that finding. The court also relied on four grounds for termination, one of which was that appellants' rights were "involuntarily terminated as to five (5) [of J.J.'s] siblings." Ark. Code Ann. § 9-27-341(b)(3)(B)(ix)(*a*)(*4*) (Supp. 2011). Appellants correctly point out that their parental rights were involuntarily terminated in three, rather than five, children. This error, however, is of no legal significance. Section 9-27-341(b)(3)(B)(ix)(*a*)(*4*) does not require a particular number of prior terminations; an involuntary termination as to only one sibling would suffice. It is undisputed that appellants' parental rights in three of J.J.'s siblings were terminated involuntarily in 2010. We therefore conclude, in our de novo review, that this ground supports the termination decision. Because only one ground for termination need be shown, the statutory requirement has been fulfilled. *Reid v. Ark. Dep't of Human Servs.*, 2011 Ark. 187, ___ S.W.3d ___. Furthermore, we do not perceive the circuit court's misstatement as to the number of prior involuntary terminations as demonstrating an improper intention to punish appellants. We consequently affirm the termination decision.

We are compelled, however, to remark on certain irregularities in the termination order. One alternative ground cited by the court was not pled in either DHS's or the attorney ad litem's petition to terminate parental rights. Due process demands that a parent be notified of the grounds that may constitute a basis for termination. *See K.C. v. Ark. Dep't of Human Servs.*, 2010 Ark. App. 353, ___ S.W.3d ___. The court also relied on the ground set forth at Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(*a*) (Supp. 2011), which requires the child to be out

of a parent's custody for twelve months. This case was fast-tracked, and J.J. had been out of the home for approximately seven months at the time the termination order was entered. The court nevertheless cited this ground and simply marked through the twelve-month language. We caution our judiciary that the courts may not alter or disregard the language of a legislatively enacted ground for termination. If the ground, as worded, does not fit the facts of the case, it should not be used.

Affirmed.

ROBBINS and GLOVER, JJ., agree.