

**ARKANSAS COURT OF APPEALS**

DIVISION III

No. CA11-970

CAROL ANN PADGETT  
APPELLANT

V.

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES AND MINOR  
CHILD

APPELLEES

Opinion Delivered April 25, 2012

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
EIGHTH DIVISION  
[NO. JN-10-728]HONORABLE WILEY A. BRANTON,  
JR., JUDGE

AFFIRMED; MOTION GRANTED

**RAYMOND R. ABRAMSON, Judge**

This appeal arises from an order of the Pulaski County Circuit Court terminating appellant Carol Padgett's parental rights to I.G.<sup>1</sup> Her attorney has filed a no-merit brief and a motion to be relieved as counsel in accordance with Ark. Sup. Ct. R. 6-9(i)(1) (2012) and *Linker-Flores v. Ark. Dep't of Human Servs.*, 359 Ark. 131, 194 S.W.3d 739 (2004), stating that there is no issue of arguable merit for reversal. Appellant has submitted pro se points, maintaining, in essence, that she loves her child and realizes her mistakes, and requesting another opportunity to parent him. We affirm.

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<sup>1</sup>The parental rights of the child's father, Frederick Goodman, were also terminated; however, he is not a party to this appeal.

I.G. came to the attention of the Arkansas Department of Human Services (DHS) after the police arrested his parents on domestic-battery and drug charges. An emergency order placing him in DHS custody was entered on May 20, 2010, and an order of probable cause was entered after a hearing on June 18, 2010.

I.G. was subsequently found dependent-neglected on July 6, 2010. At the adjudication hearing, the court found that, at the time I.G. was taken into custody, the parents were intoxicated, they had been involved in domestic violence and the manufacture of methamphetamine, and I.G. had been subjected to environmental neglect (the house was in disarray and I.G. was filthy). The goal at that time was reunification.

A review hearing was held on October 26, 2010. The court found that DHS had made reasonable efforts to provide reunification services and that Ms. Padgett was attempting to comply with the services offered, but that it was not clear whether Ms. Padgett had made any progress.

A permanency-planning hearing was held on December 21, 2010. At that hearing, the trial court denied a “no reunification” request by DHS. Because Ms. Padgett was low functioning, the court determined that she should receive the full statutory time to seek reunification with her child. The court noted, however, that while Ms. Padgett had made an effort to comply with services, it was arguable whether she had made any progress toward

reunification. The court set the goal of the case as adoption with a concurrent goal of reunification with the mother.

DHS filed a petition to terminate Ms. Padgett's parental rights on March 30, 2011, alleging that it was in I.G.'s best interests to terminate parental rights, and that, by the time of the TPR hearing, I.G. would have been out of his parents' custody for over twelve months and that the conditions requiring removal had not been remedied. DHS also alleged that I.G. had been subjected to aggravated circumstances and that other factors had arisen since the filing of the petition that prevented I.G.'s safe return because Ms. Padgett had demonstrated the incapacity to care for a juvenile with special needs.

A termination hearing was held on June 14, 2011. At the hearing, the court heard testimony from Ms. Padgett, her pastor, her social worker, her client-services coordinator at Arkansas Enterprises for the Developmentally Disabled, her DHS family-services worker, the adoption specialist, the foster parent, and Frederick Goodman.

The court also heard testimony from two psychologists, Drs. George DeRoeck and Paul DeYoub, who both testified that Ms. Padgett was incapable of caring for a young child with special needs. She was diagnosed with dementia, seizure disorder, and substance and alcohol abuse. She was also determined to be mildly mentally retarded with an IQ of 64 that was exacerbated by her alcohol-attributable dementia. She was further diagnosed with

extreme cognitive deficits that impaired her ability to learn from experience. Both psychologists, including the one hired by Ms. Padgett, opined that, as a result of these deficits, Ms. Padgett would be unable to care for I.G. without twenty-four-hour-a-day supervision. Ms. Padgett's therapist also testified that Ms. Padgett needed daily in-home services and was unable to parent I.G. alone. Dr. DeYoub testified that, because of her cognitive and functioning deficits, he could not foresee any improvements that could be made within a ninety-day timeframe that would elevate her to a level where she could be solely responsible for the care of a three year old. While the evidence did show that Ms. Padgett was actively participating in all the services offered to her, these services did not include the 24/7-type care that the psychologists believed was necessary to allow Ms. Padgett to parent her child. There was no evidence that any such services were available.

There was further evidence that I.G. also had some serious developmental impairments, including delayed language skills and possible mental retardation. After being placed in foster care and receiving services, he made significant improvements. Despite his impairments, the adoption specialist testified that I.G. was adoptable and that there was already a family interested in adopting him.

On July 13, 2011, the Pulaski County Circuit Court entered an order terminating Ms. Padgett's parental rights. The court found that DHS had proved by clear and convincing

evidence the statutory bases for termination listed in the petition, and that it was in I.G.'s best interest to terminate Ms. Padgett's parental rights. The court further stated that it had considered the likelihood that I.G. would be adopted and the potential harm that would be caused if I.G. was returned to his mother's care. Ms. Padgett filed a timely notice of appeal of this determination.

As stated above, Ms. Padgett's attorney has now filed a motion to withdraw and a no-merit brief pursuant to *Linker-Flores v. Ark. Dep't of Human Servs.*, 359 Ark. 131, 194 S.W.3d 739 (2004), asserting that there are no issues of arguable merit to support the appeal. Counsel's motion is accompanied by an abstract and brief listing all adverse rulings made at the termination hearing and explaining why there is no meritorious ground for reversal. The clerk of this court sent copies of counsel's brief and motion to Ms. Padgett, informing her that she had the right to file pro se points for reversal. *See* Ark. Sup. Ct. R. 6-9(i)(3). Her pro se points were submitted on December 6, 2011.

After examining the record, counsel's brief, and Ms. Padgett's pro se points, we hold that counsel has complied with the requirements for no-merit termination appeals and that the appeal is wholly without merit. Counsel has sufficiently identified the adverse rulings in this case, including the adequacy of the services provided by DHS, the trial court's decision to terminate Ms. Padgett's parental rights, and its rulings on several evidentiary objections, and

has adequately discussed why there is no arguable merit to an appeal. We therefore affirm the decision of the trial court terminating Ms. Padgett's parental rights and grant counsel's motion to withdraw.

Affirmed; motion granted.

PITTMAN and BROWN, JJ., agree.