

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA12-292

BILLY BOWMAN and DARLA
PREMEAUX

APPELLANTS

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES and MINOR
CHILDREN

APPELLEES

Opinion Delivered September 12, 2012APPEAL FROM THE FRANKLIN
COUNTY CIRCUIT COURT,
NORTHERN DISTRICT
[NO. JV-2010-41]HONORABLE KEN D. COKER, JR.,
JUDGEAFFIRMED; MOTIONS TO
WITHDRAW GRANTED**ROBIN F. WYNNE, Judge**

In this termination-of-parental-rights case, attorneys for separate appellants Billy Bowman and Darla Premeaux have filed motions to withdraw as counsel on appeal and no-merit briefs under *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Rule 6-9(i) of the Rules of the Arkansas Supreme Court. Premeaux has filed pro se points. We affirm the termination order and grant the motions to withdraw.

Premeaux is the mother of a daughter, N.P., born December 4, 1994, and a son, C.B., born June 5, 2001. Bowman is C.B.'s father.¹ On January 11, 2012, the circuit court entered an order terminating the parental rights of Bowman and Premeaux to N.P. and C.B. The court found that termination was in the children's best interests and considered the

¹The parental rights of Kenneth Premeaux, N.P.'s father, were also terminated in this case, but he is not a party to this appeal.

likelihood of adoption, finding that there was a “very high” likelihood that N.P. would be adopted and that it was likely that C.B. would be adopted once he was stable. Both appellants were found to have been sentenced in a criminal proceeding for periods of time which would constitute a substantial period of the juveniles’ lives. Ark. Code Ann. § 9-27-341(b)(3)(B)(viii) (Supp. 2011). In addition, both Bowman and Premeaux were found to have subjected the juveniles to aggravated circumstances. Ark. Code Ann. § 9-27-341(b)(3)(B)(ix)(a)(3)(A). Aggravated circumstances include situations in which “[a] juvenile has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused, or a determination has been made by a judge that there is little likelihood that services to the family will result in successful reunification.” Ark. Code Ann. § 9-27-341(b)(3)(B)(ix)(a)(3)(B).

The evidence presented to the trial court supported these findings. The children were removed from the home when Bowman was arrested for sexually abusing N.P. over a period of years; Premeaux was suspected of knowing about the abuse and failing to protect her daughter. Bowman later pleaded guilty to rape and received a sentence of thirty-five years’ imprisonment, seventy percent of which he would be required to serve. Premeaux pleaded guilty to sexual assault in the first degree and was sentenced to twenty-five years’ imprisonment. Before the termination, the trial court found that appellants had subjected the juveniles to aggravated circumstances; specifically, the court found that both juveniles had been subjected to extreme and repeated cruelty; that N.P. had been subjected to sexual abuse and chronic abuse; and that there was little likelihood that services to the family would result in successful reunification. Neither appellant appealed those findings.

In the termination order, the circuit court specifically addressed the best-interest considerations and found that it was in the best interest of the children to terminate appellants' parental rights. The court found that the likelihood that N.P. would be adopted was "very high" and that her foster parents had expressed interest in adopting her. The court further found that, while not as likely as the adoption of his sister, there was "a likelihood that [C.B.] will be adopted once he is stable."² There is ample evidence to support this finding in the testimony of Department of Human Services (DHS) witnesses, including an adoption specialist. As for potential harm, Bowman's abuse and Premeaux's failure to protect provide a basis for finding that the children would be subject to potential harm if returned to the parents.

Bowman and Premeaux did not appeal from the circuit court's decision that they subjected the children to aggravated circumstances. As only one ground is necessary to terminate parental rights, there is no need to address the alternate ground for termination—that appellants were found to have been sentenced in a criminal proceeding for periods of time that would constitute a substantial period of the juveniles' lives. Nonetheless, sentences of thirty-five and twenty-five years are substantial periods in the life of a juvenile. We note that it is the sentence, as opposed to a potential release date, that controls in determining whether this statutory ground has been satisfied. See *Fields v. Ark. Dep't of Human Servs.*, 104 Ark. App. 37, 289 S.W.3d 134 (2008); *Jones v. Ark. Dep't of Human Servs.*, 70 Ark. App. 397, 19 S.W.3d 58 (2000).

²C.B. was suffering from post-traumatic stress as a result of witnessing the abuse of N.P. by his father.

Finally, counsel is required to explain why each adverse ruling does not present a meritorious ground for appeal. Bowman's counsel points to an objection by the attorney ad litem to Bowman's attorney's question regarding the possibility that a child with C.B.'s mental instability might be stuck in foster care for many years and not adopted. The trial judge overruled the objection, and therefore there is no adverse ruling. In fact, there are no adverse rulings in this case other than the decision to terminate parental rights.

We have reviewed Premeaux's pro se arguments, and none of these arguments presents a meritorious ground for reversal in this case. After careful examination of 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. The circuit court's decision to terminate the parental rights of Bowman and Premeaux was not clearly erroneous. Accordingly, we grant the motions to withdraw and affirm the order terminating appellants' parental rights.

Affirmed; motions to withdraw granted.

GLOVER and BROWN, JJ., agree.

Janet Lawrence, for appellant Billy Bowman.

Deborah R. Sallings, Arkansas Public Defender Commission, for appellant Darla Premeaux.