Cite as 2013 Ark. App. 296

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA12-970

	Opinion Delivered May 1, 2013
SHARON SCARBOROUGH and RONALD "JOE" SCARBOROUGH APPELLANTS	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, ELEVENTH DIVISION [NO. JV12-410]
V.	HONORABLE ELIZABETH BURGESS, JUDGE
ARKANSAS DEPARTMENT OF HUMAN SERVICES and MINOR CHILD APPELLEE	AFFIRMED

RHONDA K. WOOD, Judge

J.C. is a four-year-old boy who had two dependency-neglect adjudications. The first adjudication involved removal from the mother, Amy Scarborough, because of her drug use. The second adjudication was also a result of Amy's drug use, but removal was from the appellants, Sharon and Ronald Scarborough, who are J.C.'s maternal grandparents. The appellants bring this appeal challenging the circuit court's decision to grant permanent custody to J.C.'s aunt, Suzanne Hill, and to close the dependency-neglect case. The circuit court's findings were not clearly erroneous and we affirm.

In 2009, the Arkansas Department of Human Services (DHS) removed J.C. from Amy's custody. Amy was unable to comply with the case plan within a reasonable time. In December 2010, the court placed J.C. in the appellants' permanent custody and closed the case.

In January 2012, DHS opened another investigation into the family after receiving a report that Amy was manufacturing methamphetamine in the appellants' home. The appellants were unwilling to allow J.C. to be drug tested until DHS obtained a court order. The hair-follicle test on J.C. was positive for methamphetamine.[1] On February 8, 2012, DHS attempted to place a hold on J.C., but was unable to locate him until February 23, 2012. On April 23, 2012, the circuit court once again adjudicated J.C. dependent-neglected. The court ordered the goal of reunification with the appellants.

On August 22, 2012, the court conducted a review hearing. Dr. Paul DeYoub testified that he evaluated the appellants and found them to be defensive, lacking insight, and stubborn. Dr. DeYoub noted that he was concerned by the appellants' failure to grasp Amy's drug problems and her antisocial personality disorder. Noting that J.C. was in a safe environment with his aunt, Dr. DeYoub concluded that the appellants' problems were not "anything that therapy would address." Dr. DeYoub unequivocally stated that he did not believe there should be reunification between J.C. and either Amy or the appellants.

J.C.'s aunt testified that she had been fostering J.C. in her home since February 2012, and that he was doing well. She expressed a willingness to have permanent custody of him. Amy's other sister testified that J.C. had "blossomed" into a happy child in the custody of his aunt. She stated she believed it would be best for J.C. to remain in his current placement.

[1] J.C. also tested positive in 2009.

On August 28, 2012, the circuit court entered an order finding that the family had "a lot of long-standing and deep-seated issues" and that the case "boil[ed] down to the appellants being in denial about Amy's drug use, defensiveness about their roles and actions, and the safety of the juveniles being compromised as a result." The court stated its belief that, if the appellants received custody of J.C., "the family would be back in [court] a third time for the exact same reasons within a matter of time." As such, the court found it was in J.C.'s best interest to be in the permanent custody of his aunt and closed the case.

Appellants contend that the court erred (1) by not giving them notice that the issue of termination of reunification services was in front of the court for consideration, (2) by making a permanency determination at a review hearing instead of a permanency hearing; and (3) by not following the order of permanency preferences set out in Ark. Code Ann. § 9-27-338(c) (Supp. 2011). We find that these issues were not preserved for appeal and affirm.

The burden of proof in dependency-neglect review hearings is preponderance of the evidence. Ark. Code Ann. § 9-27-325(h)(2)(B) (Supp. 2011). On appeal, our standard of review is de novo, but we will not reverse a circuit court's findings unless they are clearly erroneous. *Ark. Dep't of Human Servs. v. McDonald*, 80 Ark. App. 104, 91 S.W.3d 536 (2002). Our court gives due regard to the circuit court's opportunity to judge the credibility of the witnesses. *Id.*

During the closing arguments at the review hearing, counsel for DHS asked the court to grant J.C.'s aunt permanent custody and close the case. He contended that, based on Dr. DeYoub's testimony, the case was not one where services were likely to reunify

the parties. Counsel for the appellants argued that placement with J.C's aunt was not necessarily in J.C.'s best interest, and that the appellants objected to J.C. being "placed permanently with Suzanne [Aunt] and we would ask the Court to note any and all of our objections for appeal." The ad litem then argued, that the court should give J.C.'s aunt permanent custody and close the case.

We have long held that in order for an argument to be preserved for appeal, there must be a specific objection to apprise the circuit court as to the particular error asserted. *Dodson v. State*, 341 Ark. 41, 14 S.W.3d 489 (2000). In the present case, a mere statement that the appellant objected to permanent custody being placed with J.C.'s aunt was not specific enough to put the circuit court on notice of the error alleged. One could assume that the appellants simply objected to J.C's aunt having custody. There was no specific argument made to the court that no notice had been provided regarding termination of reunification services, that this was not a permanency-planning hearing, or that the court should have to make specific findings under the juvenile statutory scheme before granting J.C.'s aunt permanent custody.

However, even if the issues had been preserved for appeal, the circuit court evaluated the testimony and the history of the case and determined that reunification with Amy or the appellants would not be successful and that it was in J.C.'s best interest to be in his aunt's permanent custody. There was sufficient evidence for the court to make this finding, and therefore, we do not find the decision clearly erroneous.

For these reasons, we affirm the decision of the circuit court.

Affirmed.

WALMSLEY and GLOVER, JJ., agree.

Sherwood & Merritt, PLLC, by: *Sara F. Merritt*, for appellant.

Tabitha Baertels McNulty, County Legal Operations, for appellee.

Chrestman Group, PLLC, by: *Keith Chrestman*, attorney ad litem for minor child.