

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CV-13-147

TONIA INGLE

APPELLANT

V.

ARKANSAS DEPARTMENT OF
 HUMAN SERVICES and MINOR
 CHILD

APPELLEES

Opinion Delivered June 19, 2013

APPEAL FROM THE WASHINGTON
 COUNTY CIRCUIT COURT
 [NO. JV 2012-387]

HONORABLE STACEY
 ZIMMERMAN, JUDGE

AFFIRMED

RHONDA K. WOOD, Judge

Tonia Ingle appeals from the order of the Washington County Circuit Court, which was entered following a review hearing in the dependency-neglect case concerning her son, C.N. At that hearing, the court placed permanent custody of C.N. with his biological father and closed the dependency-neglect case. Ingle asserts two points on appeal. First, she argues that the circuit court erred in placing permanent custody of C.N. with his father and, second, that the circuit court's order placing permanent custody with the father and closing the case was unauthorized under the Juvenile Code. We affirm the circuit court.

The Department of Human Services (DHS) took C.N. into emergency custody after Ingle's arrest for possession of drug paraphernalia in her home, leaving C.N. without a caretaker. At the probable-cause hearing, the court placed C.N. in the custody of his

biological father, Jason Neal. The court adjudicated C.N. dependent-neglected based on his mother's arrest for possession of drug paraphernalia, the fact that he was present in the home with drug paraphernalia, and the fact that there was no legal caretaker for him. C.N. remained in the custody of his father with the goal of the case as reunification. At a six-month review hearing, the circuit court determined it was in C.N.'s best interest to be in his father's permanent custody. The court, therefore, placed permanent custody of C.N. with his father and closed the dependency-neglect case.

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.*

In dependency-neglect cases, the court conducts periodic reviews. At this particular six-month review, the court heard substantial testimony from both parents and other interested parties. In the circuit court's ruling from the bench, it was clear that several factors influenced its finding that it was in C.N.'s best interest to remain with his father permanently. The court found Ingle's actions of allowing someone to bring and leave a meth pipe and a marijuana pipe in her home unfavorable. The court also cited other concerns about her lifestyle, including living with a man to whom she is not married. Ingle additionally testified her older seventeen-year-old daughter resided with another woman during the school week, but Ingle did not know the woman's last name. The

circuit court found Ingle's testimony not credible. Based on the record, we cannot say that the circuit court was clearly erroneous in its decision that it was in C.N.'s best interest to remain in the permanent custody of his father.

Ingle also contends that the circuit court did not have the authority at a six-month review hearing to place the child in the father's permanent custody, specifically without complying with Ark. Code Ann. § 9-27-365 (Supp. 2011). Ingle incorrectly states the law. The juvenile code specifically provides that placing a juvenile in the permanent custody of a relative is a disposition option available to the court in dependency-neglect cases. Ark. Code. Ann. § 9-27-334(a)(2)(A) (Supp. 2011). Those disposition options are always available to the court when the court determines a disposition is in a child's best interest. In the current case, the court evaluated the testimony, the history of the case, and the compliance of the parties, and determined that it was in C.N.'s best interest to be in his father's permanent custody. There was ample 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.

PITTMAN and WYNNE, JJ., agree.

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

Tabitha Baertels McNulty, Office of Policy and Legal Services, for Appellee Arkansas Department of Human Services.

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