

SUPREME COURT OF ARKANSAS

Judy Ann Bearden v. Arkansas Department of Human Services

42 S.W.3d 397, 344 Ark. 317 (2001) · No. No. 01-31 · Decided March 29, 2001

SUMMARY

The Supreme Court of Arkansas affirmed the termination of Judy Ann Bearden's parental rights to her two oldest children based on continued substance abuse, unstable housing and employment, failure to comply with rehabilitation requirements, and the children's need for permanency. The court also held that the trial court properly refused to allow Bearden to proceed without appointed counsel because her request to waive counsel was equivocal.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Annabelle Clinton Imber
JURISDICTION	Arkansas
DECIDED	March 29, 2001
DOCKET	No. 01-31
DISPOSITION	affirmed
PROCEDURAL POSTURE	Judy Ann Bearden appealed an order of the Saline County Chancery Court terminating her parental rights to two children. The Arkansas Court of Appeals reversed, and the Supreme Court of Arkansas granted review pursuant to Arkansas Supreme Court Rule 2-4(c).
STANDARD OF REVIEW	The Supreme Court reviewed the chancery court's finding of clear and convincing evidence under the clearly erroneous standard, giving due regard to the chancery court's opportunity to assess witness credibility and great weight to the trial judge's personal observations concerning the welfare of young children.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court decision; precedential
PARTIES	Judy Ann Bearden v. Arkansas Department of Human Services

TOPICS

- termination of parental rights
- parental rights
- due process
- appellate procedure
- standard of review

PRACTICE AREAS

family law

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by refusing to allow Bearden to waive appointed counsel and proceed pro se at the parental-rights termination hearing.
2. Whether the evidence was sufficient to support termination of Bearden's parental rights under Arkansas law.
3. Whether the evidence established that the Arkansas Department of Human Services made meaningful efforts to rehabilitate the home and correct the conditions causing removal.
4. Whether termination was in the children's best interests.

HOLDINGS

1. The trial court properly refused to allow Bearden to proceed without counsel because her request to waive counsel was equivocal and therefore did not satisfy constitutional standards for waiver.
2. The chancery court did not clearly err in finding by clear and convincing evidence that termination of Bearden's parental rights was warranted.
3. DHS satisfied the meaningful-efforts requirement by providing transportation, treatment referrals, parenting-class referrals, visitation assistance, and assistance concerning public-housing eligibility, while Bearden repeatedly failed to take advantage of those services.

KEY QUOTATIONS

“Because of the equivocal nature of Ms. Bearden's request, the trial court did not err in refusing to allow her to proceed pro se.” (403)

“For these reasons, we hold that the trial court did not err in finding clear and convincing evidence to support the termination of Ms. Bearden's parental rights with regard to Devin and Peppermint. Affirmed.” (406)

FACTUAL BACKGROUND

The Arkansas Department of Human Services removed Bearden's newborn daughter and older son after evidence of inadequate housing and resources, prenatal cocaine use, positive cocaine and marijuana tests, unsafe supervision, and the son's exposure to marijuana and dangerous conditions. During the dependency-neglect proceedings, Bearden repeatedly failed to complete substance-abuse treatment, parenting classes, counseling, and drug screens, and continued to test positive for cocaine. She also lacked stable housing and employment, missed or arrived late to visitations, failed to interact appropriately with the children, and was incarcerated for probation violations related to drug abuse and instability when the termination hearing occurred.

PROCEDURAL HISTORY

The chancery court adjudicated Bearden's two oldest children dependent-neglected and later terminated her parental rights after finding that she had repeatedly failed to remedy the conditions causing removal, including cocaine use, unstable housing, and unstable employment. The Arkansas Court of Appeals reversed the termination order. On petition for review, the Supreme Court of Arkansas considered the case as though originally filed there and affirmed the chancery court.

DISPOSITION

affirmed

CASES CITED

- Bearden v. Arkansas Department of Human Services, 72 Ark. App. 184, 35 S.W.3d 360 (2000)
- Estridge v. Waste Management, 343 Ark. 276, 33 S.W.3d 167 (2000)
- Maxey v. Tyson Foods, Inc., 341 Ark. 306, 18 S.W.3d 328 (2000)
- Woodall v. Hunnicutt Construction, 340 Ark. 377, 12 S.W.3d 630 (2000)
- White v. Georgia-Pacific Corporation, 339 Ark. 474, 6 S.W.3d 98 (1999)
- Burlington Industries v. Pickett, 336 Ark. 515, 988 S.W.2d 3 (1999)
- Lassiter v. Department of Social Services, 452 U.S. 18, 32-34, 101 S. Ct. 2153, 2162-63, 68 L. Ed. 2d 640 (1981)
- Akins v. State, 330 Ark. 228, 237-38, 955 S.W.2d 483 (1997)
- Oliver v. State, 323 Ark. 743, 918 S.W.2d 690 (1996)
- Collins v. State, 338 Ark. 1, 6, 991 S.W.2d 541 (1999)
- Mayo v. State, 336 Ark. 275, 984 S.W.2d 801 (1999)
- J.T. v. Arkansas Department of Human Services, 329 Ark. 243, 947 S.W.2d 761 (1997)
- Wade v. Arkansas Department of Human Services, 337 Ark. 353, 361, 990 S.W.2d 509 (1999)
- Baker v. Arkansas Department of Human Services, 340 Ark. 42, 8 S.W.3d 499 (2000)
- Ullom v. Arkansas Department of Human Services, 340 Ark. 615, 621, 12 S.W.3d 204 (2000)
- Briscoe v. State, 323 Ark. 4, 912 S.W.2d 425 (1996)