

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs January 10, 2014

**IN RE JEENA P., ET AL.**

**Appeal from the Juvenile Court for Montgomery County  
No. TPRDV13657, TPRDV13658, TPRDV13659, TPRDV13660  
Kenneth R. Goble, Judge**

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**No. M2013-02266-COA-R3-PT - Filed January 30, 2014**

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Mother challenges the termination of her parental rights for failure to support. We find no need to address this issue because mother did not appeal the trial court's findings of several other grounds for termination. Mother also disputes the trial court's finding by clear and convincing evidence that termination is in the best interest of the children. We affirm the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court Affirmed**

ANDY D. BENNETT, J., delivered the opinion of the court, in which PATRICIA J. COTTRELL, M.S., P.J., and RICHARD H. DINKINS, J., joined.

Amy C. Bates, Clarksville, Tennessee, for the appellant, Jessica Christina M.

Robert E. Cooper, Jr., Attorney General and Reporter and Mary Byrd Ferrar, Assistant Attorney General for the appellee, State of Tennessee, Department of Children's Services.

**MEMORANDUM OPINION<sup>1</sup>**

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<sup>1</sup> This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion, it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case. Tenn. R. Ct. App. 10.

Jessica Christina M. (“Mother”) maintains that “the trial court erred in terminating [her] parental rights on the ground of abandonment for willful failure to pay child support.” The trial court also found that Mother abandoned the children by failing to visit in the four months preceding her incarceration; abandoned the children by engaging in conduct that exhibited a wanton disregard for the children’s welfare; abandoned the children by failure to provide a suitable home; failed to substantially comply with permanency plans; and failed to remedy the persistent conditions that led to the removal of the children. These latter grounds have not been appealed or briefed by Mother. A party’s failure to argue issues in its brief constitutes a waiver of those issues. *Forbess v. Forbess*, 370 S.W.3d 347, 355 (Tenn. Ct. App. 2011). Because these latter issues are waived, the trial court’s determination that these grounds for termination of parental rights have been met is final. Addressing the one issue Mother raised regarding one ground for termination would change nothing and amount to an advisory opinion, so we respectfully decline to address that issue. *See In re D.L.B.*, 118 S.W.3d 360, 367 (Tenn. 2003) (holding that the trial court may terminate parental rights on the basis of only one statutory ground).

Mother also claims that the termination of her parental rights is not in the best interest of the children. Besides finding grounds for termination of parental rights, the courts must also find by clear and convincing evidence that it is in the children’s best interest to terminate the parent-child relationship. Tenn. Code Ann. § 36-1-113(c). As to the trial court’s findings of fact, our review is de novo with a presumption of correctness unless the evidence preponderates otherwise, in accordance with Tenn. R. App. P. 13(d). *In re Taylor B. W.*, 397 S.W.3d 105, 112 (Tenn. 2013). We must then determine whether the facts, as found by the trial court or as supported by the preponderance of the evidence, clearly and convincingly establish that termination of parental rights is in the children’s best interest. *Id.*

The trial court properly considered the factors listed in Tenn. Code Ann. § 36-1-113(i):

- “(1) Whether the parent or guardian has made such an adjustment of circumstance, conduct, or conditions as to make it safe and in the child’s best interest to be in the home of the parent or guardian[.]”

The trial court found that Mother had not made such an adjustment. Mother admitted she did not have a stable home and had been incarcerated several times since the children were removed.

- “(2) Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible[.]”

The trial court found that the state made reasonable efforts to assist Mother and that lasting adjustments did not appear possible. We agree.

- “(3) Whether the parent or guardian has maintained regular visitation or other contact with the child[.]”

The trial court found that Mother had not maintained regular visitation. We agree that Mother’s visitation and phone calls with the children were sporadic at best.

- “(4) Whether a meaningful relationship has otherwise been established between the parent or guardian and the child[.]”

Jeena testified that she was happy with her foster parents and wanted to be adopted. Jasper expressed a preference to live with Mother, but also stated he would be happy to be adopted by his foster parents.

- “(5) The effect a change of caretakers and physical environment is likely to have on the child’s emotional, psychological and medical condition[.]”

The trial court made no finding on this criterion and there is no evidence in the record relevant to this factor.

- “(6) Whether the parent or guardian, or other person residing with the parent or guardian, has shown brutality, physical, sexual, emotional or psychological abuse, or neglect toward the child, or another child or adult in the family or household[.]”

The trial court found that the children were abused by Mother. The record contains evidence of neglect in that the children often went hungry and did not have needed medical attention.

- “(7) Whether the physical environment of the parent’s or guardian’s home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol, controlled substances or controlled substance analogues as may render the parent or guardian consistently unable to care for the child in a safe and stable manner[.]”

Mother was incarcerated at the time of trial and anticipated a lengthy stint in a rehab program afterward.

- “(8) Whether the parent’s or guardian’s mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing safe and stable care and supervision for the child[.]”

There was no testimony about Mother’s mental or emotional status, although there is some suggestion of underlying issues related to her addiction.

- “(9) Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department pursuant to § 36-5-101.”

Mother testified that she had paid no child support or supported the children in any other way since they were placed in state custody.

The trial court found by clear and convincing evidence that it was in the best interest of the children to terminate Mother’s parental rights. We concur. Costs of appeal are assessed against Mother, for which execution may issue if necessary.

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ANDY D. BENNETT, JUDGE