

Dora Martin Scott appeals the Juvenile Court's order terminating her parental rights with regard to her son, Charles David Martin.

Ms. Scott is the mother of two young boys. Charles, the subject of this appeal, was born on August 6, 1983, and Christopher was born on January 25, 1985.¹ Although Christopher was born out of wedlock, the boys have the same father, Richard Martin. Dora Martin Scott and Richard Martin were divorced prior to Christopher's birth. Mr. Martin surrendered his parental rights as to both children in 1994.

After the divorce, Ms. Scott retained custody of the children until January of 1986. At that time, Ms. Scott's mother, Virginia Long, petitioned the Juvenile Court for temporary custody of the boys. The boys remained with Ms. Long until June of 1986 when the Tennessee Department of Human Services (DHS) was awarded custody after filing a petition alleging neglect and abuse of the two children while in the custody of Ms. Long.

Upon removing the children from Ms. Long's home, DHS placed the boys in separate foster homes because of their behavioral problems. DHS and Ms. Scott then entered into a series of five different foster care plans. Ms. Scott

¹ The order from which Ms. Scott appeals is related solely to her son Charles. She does not contest the earlier surrender of her parental rights as to her other son Christopher.

voluntarily signed all but the fifth and final plan. At first, the plans allowed unsupervised visitation between M^s. Scott and the children. On at least one such visit, M^s. Scott left the children in the care of her brother who sexually abused the children and was subsequently convicted. Following this incident, M^s. Scott's visitation with the children was only under the supervision of DHS.

In February of 1991, Charles became the foster child of the White family. He has resided with the Whites since that time. Since his placement with the Whites, M^s. Scott has shown little interest in exercising her visitation rights with Charles. She exercised her rights on only four occasions between November 1992 and March 1994. In February of 1994, after surrendering her parental rights as to Christopher, M^s. Scott indicated an intention to surrender her rights to Charles as well. When she did not follow through with this intention, DHS filed a petition to terminate her parental rights on July 18, 1994. Hearings on the petition were held in March and May of 1995. The Juvenile Court entered an order terminating M^s. Scott's parental rights on August 14, 1995. It is from this order that she now appeals.

M^s. Scott states that the Juvenile Court erred in two ways. First, she argues that the Court erred when it found that she had not substantially complied with the foster care plans. Second, she argues that the Trial Court erred when it determined that there was clear and convincing evidence that the

continuation of the legal parent relationship would greatly diminish Charles' chance of early integration into a stable and permanent home. We cannot agree with either of her arguments.

According to T. C. A. 37-2-403(a)(2)², substantial noncompliance by the parent with the foster care plan provides grounds for the termination of parental rights so long as the parent was aware of the plan's contents and that the requirements of the plan were reasonable and related to remedying the conditions which necessitated foster care placement. Since 1986, five foster care programs were designed for M^s. Scott and her children. M^s. Scott signed the first four and while she did not sign the fifth, she was well informed of its contents.

During the course of this hearing, the Juvenile Court heard from numerous witnesses who were involved in the counseling of the boys and their mother. Much time and attention were given to developing the events which occurred during each of the foster care plans. The first plan was instituted in June of 1986. The goals for this plan as well as the subsequent plans were for M^s. Scott to find suitable housing, attend counseling, visit her children twice a month and pay monthly support of five dollars. During the first plan, M^s. Scott did attend counseling and also visited the children. However, over a period of approximately 15

² This section of the Code was amended in 1995 and became effective January 1, 1996. As this case was filed, tried and determined prior to the effective date of the amendment, the 1991 version is controlling. The amendment, however, is slight and would in no way affect the outcome of this case.

months, M. Scott reported eight different residences to DHS and paid roughly half of her required support.

The second foster care plan covered the time period between September 1987 and February 1989. The basic goals of the plan were the same. The support plan was raised to 10 dollars per month and M. Scott was instructed to provide close supervision of the children during her visitation periods. It was during this time that DHS received the report that the children had been sexually abused by M. Scott's brother while the children were under M. Scott's supervision. During this period, M. Scott reported three changes of residences and that she had been laid off from her job. She failed to pay any support for the children and attended only two of the six scheduled parenting classes.

A third plan with similar goals was instituted between February 1989 and December 1990. Over the course of these months, M. Scott reported three different residences and four different jobs. She failed to pay any support but she did visit the children. However, during at least one visit she was observed smacking and threatening the children. M. Scott married her second husband, Joseph Scott, in November 1989. M. Scott has a criminal record which includes several motor vehicle offenses, possession of drug paraphernalia, theft and other crimes. DHS presented testimony that the marriage to M. Scott negatively affected the suitability and stability of the home.

The fourth plan with the same basic goals was for the time period of December 1990 through March 1992. During this time, M. Scott reported four residences and two jobs. She failed to pay child support and after July 1991, she started missing visitation appointments or either arrived late or left early. M. Scott also failed to complete the parenting classes. At this time, M. Scott became separated from Mr. Scott, but apparently she did not obtain a divorce. Also during this time, Charles was placed with the Whites, where he remains today.

The fifth and final plan was instituted in March 1992. During this time, M. Scott reported seven different residences. She also reported that she was now living with a man, David "Peanut" Harris despite the fact that she was apparently still married to Mr. Scott. Mr. Harris also has a criminal record which includes convictions for public intoxication, possession of a weapon, aggravated assault and burglary. From the period of November 1992 to July 1993 M. Scott failed to have any visitation with Charles. From July 1993 to March 1994, she visited with Charles only four times. During these visits, the longest time M. Scott was responsible for Charles was two hours. M. Scott surrendered her parental rights to her youngest child in February 1993. DHS filed this petition to terminate her rights as to Charles in July of 1994.

It is clear that the Juvenile Court had ample evidence before it from which it could conclude that M. Scott failed to

substantially comply with the foster care plans. She was unable to find suitable and stable housing. She reported 19 different residences and she began living with a man who had several criminal convictions and who was not her husband. These circumstances do not meet the goal of suitable and stable housing that was set by the foster care plan. Furthermore, Ms. Scott has maintained a very infrequent visitation plan with Charles and failed to keep her scheduled visits on numerous occasions. She also failed to complete her parenting classes or follow through on the monthly support plan. Thus, we are satisfied that the Juvenile Court was correct in concluding that Ms. Scott substantially failed to comply with the requirements of the foster care plans as required by T. C. A. 37-2-403(a)(2).

In her second issue, Ms. Scott argues that the Juvenile Court erred when it found clear and convincing evidence that the continuation of the legal parent relationship would greatly diminish Charles' chance of early integration into a stable and permanent home. T. C. A. 37-1-147(d)(1)(C) provides that after a hearing on the termination petition, a court may terminate the rights of the legal parent if there is clear and convincing evidence that the termination is in the child's best interest and that one of five listed factors is present. Looking at the factors, the Juvenile Court determined that the first of the listed conditions existed. That condition is that the child have been removed from the custody of the parent for at least one year and that the conditions causing the child to be removed still

exists and would likely result in the child experiencing further abuse or neglect, that there is little likelihood that these conditions will be remedied at an early date so that the child may be returned to the parent, and that the continuation of the relationship between parent and child would greatly diminish the child's chances of early integration into a stable and permanent home. This last part of the condition is the sole basis for Ms. Scott's argument. She maintains that there was not clear and convincing evidence presented that demonstrated that continuing her relationship with Charles would greatly diminish his chances for early integration into a permanent home.

In her brief, Ms. Scott points to the six foster homes in which Charles has lived as the source of instability in his life. However, Charles has been in the same foster home, the Whites, since February 1991. This length of time is the longest period that Charles has lived with anyone, including Ms. Scott. Charles was taken out of Ms. Scott's custody in 1986 when he was only three years old. Testimony in this case showed that Charles was comfortable in the White home and that he was able to display affection with his foster family whereas he had trouble doing so with Ms. Scott. Testimony further showed that Charles' negative behaviors declined during the period he lived with the Whites. Furthermore, Charles' court-appointed guardian ad litem who appears to have conducted a very thorough evaluation of Charles' situation, recommended that Ms. Scott's parental rights be terminated.

Thus, we find the Juvenile Court was correct in concluding that there was clear and convincing evidence that the continuation of Charles' relationship with M. Scott does greatly diminish his chance of early integration into a stable and permanent home.

For the reasons stated above, the judgment of the Juvenile Court is affirmed and the cause remanded for collection of costs below. Costs of appeal are adjudged against M. Scott.

Houston M Goddard, P. J.

CONCUR:

Don T. McMurray, J.

Charles D. Susano, Jr., J.