

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-001428-ME

E.C.

APPELLANT

APPEAL FROM ANDERSON CIRCUIT COURT
FAMILY COURT DIVISION

v.

HONORABLE JOHN DAVID MYLES, JUDGE
ACTION NO. 14-AD-00002

CABINET FOR HEALTH AND FAMILY
SERVICES, COMMONWEALTH OF
KENTUCKY; AND C.E.-L.N., A
MINOR CHILD

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: J. LAMBERT, STUMBO, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: E.C. brings this appeal from an August 1, 2014, order and judgment of the Anderson Circuit Court, Family Court Division, (family court) terminating his parental rights as to C.E.-L.N. (hereinafter referred to as "C.N.")

We affirm.

E.C. is the biological father of C.N., who was born on June 12, 2003, in Orange County, Florida. C.N. and her mother resided in Florida for approximately five years and then moved to Kentucky. E.C. remained in Florida. Shortly after coming to Kentucky, the Cabinet for Health and Family Services (Cabinet) became involved with C.N. In 2008, the Cabinet received a referral concerning C.N. because her mother had multiple sclerosis. The Cabinet investigated but did not file a petition for dependency, neglect, and abuse. C.N. remained in the primary physical custody of her mother.

In 2013, the Cabinet received another referral concerning C.N. Following an investigation, the Cabinet filed a petition for dependency, neglect, and abuse. In the petition, the Cabinet alleged that C.N.'s mother had been hospitalized due to health issues and was awaiting placement in a nursing home; thus, C.N.'s mother was no longer capable of caring for her. The mother's boyfriend had been acting as C.N.'s primary caretaker. However, the boyfriend was removed from the home due to allegations of abuse against the mother. The boyfriend also had an extensive criminal history. An order was entered finding C.N. to be dependent and placing her in the temporary custody of her maternal uncle and aunt. A short time later, the Cabinet determined the uncle and aunt could not care for C.N. because of the extenuating mental health issues she suffered as a result of sexual abuse by the mother's boyfriend. By order entered September 23, 2013, C.N. was placed in the temporary custody of the Cabinet.

On March 10, 2014, the Cabinet filed a petition to involuntarily terminate E.C.'s parental rights as to C.N.¹ Following a hearing, the family court involuntarily terminated E.C.'s parental rights by judgment and order entered August 1, 2014. The family court made detailed findings of fact and conclusions of law and particularly found: (1) E.C. refused to participate in a case planning conference, so the Cabinet was unable to provide services to him; (2) E.C. made one court appearance in May 2013, and at that time he had not seen C.N. for five years; (3) E.C. was permitted to have supervised visitation with C.N. but never exercised same; (4) E.C. requested that C.N. be placed with him in Florida so a home evaluation was ordered; (5) E.C. lived in an adult only retirement community that did not allow children and E.C. refused to move until after C.N. was placed with him; and (6) E.C. was a heavy drinker and submitted to one drug test which was positive for marijuana and cocaine.

In terminating E.C.'s parental rights, the family court concluded that C.N. was a neglected child as defined in Kentucky Revised Statutes (KRS) 600.020(1). As grounds for involuntarily terminating E.C.'s parental rights, the family court concluded that E.C. continuously or repeatedly failed to provide or was substantially incapable of providing parental care and protection for the child and there was no reasonable expectation of improvement. The family court also determined that E.C. had continuously or repeatedly failed to provide or was incapable of providing the essential food, clothing, shelter, medical care or

¹ By order and judgment entered August 1, 2014, E.C.-L.N. (C.N.)'s mother voluntarily terminated her parental rights.

education reasonably necessary for the child's well being with no reasonable expectation of significant improvement in the immediately foreseeable future. And finally, the court concluded that it was in the best interest of C.N. to terminate E.C.'s parental rights.

E.C.'s appointed counsel timely filed a notice of appeal from the August 1, 2014, order and judgment. Thereafter, E.C.'s appointed counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967) and conceded that no meritorious issue existed to present to this Court on appeal.

When appealing an involuntary termination of parental rights, appointed counsel for a parent is permitted to file an *Anders* brief if counsel believes the appeal is frivolous after conducting a good faith review of the record. *A.C. v. Cabinet for Health and Family Services*, 362 S.W.3d 361 (Ky. App. 2012). If counsel files an *Anders* brief, the Court of Appeals is bound to "independently review the record and ascertain whether the appeal is, in fact, void of nonfrivolous grounds for reversal." *Id.* at 372.

We have thoroughly reviewed the record and conclude that sufficient evidence supports the family court's decision to involuntarily terminate E.C.'s parental rights. The family court rendered detailed findings of fact which we incorporate herein by reference and the court otherwise complied with the relevant statutory mandates for involuntarily terminating E.C.'s parental rights. From the record before this Court, we can find no legal ground or reason to set aside the

family court's judgment. In short, we agree with counsel that no valid basis exists to warrant relief from this Court. *See A.C.*, 362 S.W.3d 361. Accordingly, we conclude that the family court did not commit reversible error in the involuntary termination of E.C.'s parental rights.

For the foregoing reasons, the order and judgment of the Anderson Circuit Court, Family Court Division is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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