

Commonwealth Of Kentucky

Court Of Appeals

No. 1997-CA-001303-MR

L. J.

APPELLANT

v.

APPEAL FROM UNION CIRCUIT COURT
HONORABLE TOMMY CHANDLER, JUDGE
ACTION NO. 96-CI-185

J. S., D. S., W. D. J., G. J.,
J. J., and L. H. J.

APPELLEES

OPINION
AFFIRMING

** ** * * *

BEFORE: GARDNER, HUDDLESTON, And KNOX, Judges.

HUDDLESTON, JUDGE. This is an appeal by L. J. from a Union Circuit Court order granting permanent custody of her three infant children G. J., J. J. and L. H. J. to appellees J. S. and D. S., the maternal great-uncle and great-aunt of the children. We affirm.

Twins G. J. and J. J. were born June 22, 1993. In September 1993 the twins were placed in the home of J. S. and D. S. with the consent of L. J. Shortly thereafter, pursuant to a Marshall District Court order, J. S. and D. S. were appointed custodians of the twins, and the two boys have resided in their home continually since that time. L. H. J. was born October 17, 1994. L. H. J. was born suffering from side effects of L. J.'s use

of crack cocaine during her pregnancy and shortly after her birth was placed in the home of J. S. and D. S. by the Cabinet for Human Resources (now Cabinet for Families and Children). L. H. S. has lived with J. S. and D. S. continually since October 25, 1994.

On August 11, 1994, J. S. and D. S. filed a petition seeking the adoption of the twins. On June 23, 1995, J. S. and D. S. filed a petition seeking adoption of L. H. S. On November 11, 1996, J. S. and D. S. filed a petition for temporary and permanent custody of the children. The latter action was a precautionary filing in the event the adoption proceedings were unsuccessful. The trial court ruled on the custody case first, and on April 29, 1997, issued an order granting J. S. and D. S.'s motion for permanent custody of the three children. L. J. timely filed an appeal of the custody order. On June 10, 1997, the trial court entered an order terminating the parental rights of L. J. to her three children and granting adoption of the children to J. S. and D. S. On July 9, 1997, an order and judgment of adoption approving the adoption of the three children by J. S. and D. S. was entered.¹ L. J. did not appeal the orders terminating her parental

¹The June 10, 1997, order also terminated the parental rights of the children's father, W. D. J. W. D. J. appealed the June 10, 1997, order terminating his parental rights and the July 9, 1997, order granting the petition of J. S. and D. S. for adoption. In an opinion rendered this same day, these judgments have been affirmed. W. D. J. did not appeal the April 29, 1997, order, the order under consideration here, granting J. S. and D. S. permanent custody of the children.

rights or the judgment of adoption; hence these orders are not subject to our review in this appeal.

On appeal, L. J. argues that she is entitled to visitation with her three children pursuant to Ky. Rev. Stat. (KRS) 403.320(1). However, L. J.'s notice of appeal cites only the April 29, 1997, judgment for appellate review. That order was limited to awarding permanent custody to J. S. and D. S. The order does not address L. J.'s entitlement to visitation nor are we able to locate in the record where L. J. presented this issue to the trial court. Absent palpable error resulting in manifest injustice, appellate courts do not review issues not presented to the trial court. Deemer v. Finger, Ky., 817 S.W.2d 435, 437 (1990); Ky. R. Civ. Proc. (CR) 61.02. We perceive no manifest injustice in the trial court's orders and hence the issue of visitation is not properly before us.

However, we note that L. J.'s parental rights to her children have been terminated and J. S. and D. S. have now, pursuant to the trial court's judgment, adopted the three children. L. J. did not appeal these orders and the issues of parental termination and adoption are now res judicata. Unless the biological parent is the spouse of the adoptive parent, upon the granting of an adoption, all legal relationships between the adopted child and the biological parent are terminated. KRS 199.520(2). Hence, L. J.'s reliance on KRS 403.320, which permits a parent not granted custody of a child reasonable visitation, is misplaced. L. J.'s legal relationship with her children is no

longer, legally, a parent-child relationship. Accordingly, she no longer is entitled to the visitation rights protected under KRS 403.320.

For the foregoing reasons the judgment of the trial court is affirmed.

ALL CONCUR.

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