

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-000044-MR

A. D. C. M. AND M. M.

APPELLANTS

v. APPEAL FROM ROCKCASTLE CIRCUIT COURT
HONORABLE DANIEL J. VENTERS, JUDGE
ACTION NO. 98-CI-00260

COMMONWEALTH OF KENTUCKY
CABINET FOR FAMILIES AND
CHILDREN; C. B.; AND L. B.

APPELLEES

OPINION
AFFIRMING

** ** * * * **

BEFORE: DYCHE, HUDDLESTON, AND KNOPF, JUDGES.

DYCHE, JUDGE: The natural parents of an infant child appeal from an order of the Rockcastle Circuit Court granting permanent, full custody of that child to appellees C. B. and L. B. as *de facto* custodians, pursuant to Kentucky Revised Statutes ("KRS") 403.270. We affirm.

The sole ground for reversal on appeal is that the trial court did not make sufficient factual findings to support its legal conclusion that C. B. and L. B. were *de facto* custodians. The thrust of that argument is that there is not

sufficient evidence in the record that C. B. and L. B. were "the primary caregiver[s] for, and financial supporter[s] of" the subject child, who "resided with [C. B. and L. B.] for a period of six months or more. . . ." We are presented with no transcript of any hearing held by the trial court, so we must determine from the clerk's record, alone, whether there is substance to the allegation of error. A silent record supports the decision of the trial court. Commonwealth v. Thompson, Ky., 697 S.W.2d 143, 145 (1985).

The record we have indicates that the Rockcastle District Court committed the child to the Cabinet for Human Resources (Cabinet for Families and Children) **with the consent/agreement of appellants** on March 31, 1998; the court recommended that the child be, and she was, placed with appellees C. B. and L. B. A review of this placement was conducted by that court on September 1, 1998; the parents were notified of the review, but failed to attend. The placement was assessed as "exceptional." On November 6, 1998, appellants filed a motion seeking return of the child to them; a similar motion had been filed on August 25, 1997, prior to the placement of the child with their consent/agreement.

From these facts we are able to determine that the child was with C. B. and L. B. in excess of the minimum period required by the statute for designation as *de facto* custodians. The trial court's findings were therefore supported by substantial evidence, and adequate basis for the conclusion of law that C. B. and L. B. were eligible for statutory

consideration as *de facto* custodians. No argument is made that it was not in the best interest of the child to be with these custodians rather than the natural parents.

The order of the Rockcastle Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANTS:

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BRIEF FOR APPELLEE
CABINET FOR FAMILIES AND
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