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Commonwealth of Kentucky

Court of Appeals

NO. 2011-CA-001081-ME

M.H. APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE PAULA SHERLOCK, JUDGE
ACTION NO. 10-AD-500203

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES;
B.L.H.; AND A.W.C., JR. APPELLEES

OPINION
AFFIRMING

** ** ** ** **

BEFORE: CLAYTON, STUMBO AND TAYLOR, JUDGES.

STUMBO, JUDGE: M.H.[1] appeals from a judgment of the Jefferson Family Court terminating her parental rights as to B.L.H. After careful review, we affirm.

[1] This case involves a minor child; therefore, the parties' real names will not be used.

Facts and Procedural History

The Cabinet for Health and Family Services has been involved with Appellant and six of her seven biological children on a continuous basis since 2005. The Cabinet first became involved with B.L.H. on December 8, 2008, when it filed a dependency petition alleging the following:

> On or about September 5, 2008 Natural mother, [Appellant], [gave] birth to [B.L.H.] Mother tested positive for cocaine at birth. On August 22, 2008, while mother was drinking with friends, [F.B.], ex-paramour showed up and domestic violence occurred between parties. Mother suffered bruises and scratches, police [were] called. Mother had [B.L.H.] early, and baby has been in UL Hospital since 9/5/08. Worker made HELP Team referral for services. On arrival to meet mother, Frankie Casey HELP Team worker was met and confronted at the door by [F.B.] holding [X.B.][2] Father had no contact order through EPO and [family court]. Ms. Casey tried to wake up [Mother] but she appeared to be in shock. [Mother] stated she had been raped by [F.B.] [F.B.] has a no contact order through EPO. Mother appears to be emotional[ly] unstable and unable to care for children. Mother has sought EPO and criminal action against [Natural Father]. Mother has lost custody of four older children due to past drug and mental health problems. Judge Sherlock issues EPO on December 4, 2008.

[2] X.B. was one of Appellant's two children with F.B. As noted above, in all, she has seven biological children. The youngest was born in the fall of 2009 and has remained in Appellant's custody since that time. However, since 2005 the other six – including B.L.H. – have been found to be abused or neglected at some point and were removed from their parents' custody. Four of those children were returned to Appellant's custody in December of 2010, and she regained joint custody of a fifth some time earlier. However, during the evidentiary hearing on the Cabinet's petition for termination, a Cabinet social worker advised the family court that new allegations of domestic abuse involving Appellant and F.B. had arisen and that new petitions involving those children were consequently forthcoming.

Following his birth, B.L.H. remained hospitalized until December 8, 2008. The Cabinet filed its dependency petition when he was scheduled to be released from the hospital.

On December 9, 2008, the family court granted joint temporary custody of B.L.H. to Appellant and the child's maternal grandmother. The court ordered that the child was to reside in the grandmother's home; that F.B. have no contact with the family; and that the family cooperate with the HELP team, the Cabinet, and a Passport nurse. Appellant was further ordered to establish paternity for the child, undergo mental health treatment with Seven Counties Services, and to take all prescribed medications.

On March 26, 2009, B.L.H. was placed in the sole temporary custody of his grandmother following Appellant's failed suicide attempt and her resultant hospitalization. On May 7, 2009, the family court found that B.L.H. had been abused and/or neglected based on Appellant's stipulation that she had tested positive for cocaine at the time of his birth. The family court ordered Appellant to attend a "dual diagnosis" treatment program for her substance abuse and mental health issues and to participate in random drug screens. The court further ordered that Appellant could have supervised visits with B.L.H. as long as she remained clean and sober and complied with all court orders. However, the Assistant Jefferson County Attorney assigned to the case and the child's guardian *ad litem* both voiced their concerns about the child being placed in the custody of his grandmother.

On July 23, 2009, the family court placed B.L.H. in the Cabinet's temporary custody, and he moved in with a foster family on July 31, 2009. On September 17, 2009, the Cabinet moved to waive its statutory obligation to make reasonable efforts to reunite Appellant and B.L.H., but this motion was denied. On December 3, 2009, the family court committed B.L.H. to the Cabinet. On February 25, 2010, the court again ordered Appellant to continue and complete dual diagnosis treatment with Bridgehaven, to have no contact with F.B., to remain clean and sober, and to refrain from domestic violence. The court also ordered both Appellant and A.C., the child's father, to pay child support for B.L.H. and for the Cabinet to provide Appellant with random drug screens. Appellant was allowed to have limited, unsupervised visits with B.L.H.

The current action commenced on July 14, 2010, when the Cabinet filed a petition for involuntary termination of Appellant's parental rights as to B.L.H.[3] On September 13, 2010, Appellant moved to remand the trial date and asked that custody of B.L.H. be returned to her, but this motion was denied. Appellant subsequently moved for unsupervised, overnight visits with B.L.H., but this motion was also denied. An evidentiary hearing on the Cabinet's petition to terminate parental rights was held on February 25, 2011.

Following the hearing, the family court entered Findings of Fact and Conclusions of Law supporting its ultimate decision to terminate Appellant's

[3] The Cabinet also sought to terminate A.C.'s parental rights in the same petition, and the family court ultimately terminated those rights. A.C. is not a party to the present appeal.

parental rights as to B.L.H. Of particular note, the court made extensive findings regarding Appellant and her current ability to care for B.L.H.:

> [Appellant's] primary barriers to reunification with [B.L.H.] have been her extensive history of substance abuse, mental health problems, and domestic violence relationships. This Respondent mother was a child victim of severe sexual and physical abuse and engaged in a pattern of relationships with perpetrators of abuse during her adulthood, having had violen[t] relationships with this Respondent father, [A.C.], another father of her children, [F.B.], and her current husband, [S.C.] Despite having engaged in domestic violence treatment at Bridgehaven, [Appellant] has repeatedly minimized her abuse and resumed relationships with her perpetrators. When the worst of her abusers, [F.B.] (with whom she has had numerous domestic violence orders since 2006) was released from incarceration in summer 2010, [Appellant] had their Domestic Violence Order amended to an order for "no unlawful contact" (Cabinet Exhibit 5), began reporting to her therapists that he "wasn't that bad" (ultimately discontinuing that therapeutic relationship when confronted in treatment about the consequences of resuming a relationship with him) and resumed an intimate relationship with [F.B.] (resulting in a domestic violence incident with her husband, [S.C.], and a temporary separation in their marriage). Most recently, in February 2011, she suffered two (2) separate assaults at the hands of [F.B.], the first being when he choked her and the second being when he "busted" her lip. These incidents occurred five (5) days apart, in the presence of her children, and in [Appellant's] home, but she did not report them to the Cabinet, this Court, or the police until after the second incident. New abuse or neglect petitions are pending from the Cabinet as a result of these incidents.
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> [Appellant] also has an extensive history of substance abuse, dating back to at least 2001. She has reportedly maintained her current sobriety for over one (1) year but she admits to previous similar periods of treatment compliance and sobriety followed by relapses.

Additionally, despite this Court's order that she complete Dual Diagnosis treatment, she discontinued that treatment prior to completion in approximately September 2010 and admits that she is currently not engaged in any aftercare treatment or other abstinence program, such as Alcoholics Anonymous.

[Appellant] is diagnosed with Major Depressive Disorder and has long suffered from depression, anxiety and anger management problems. She began treatment with her current therapist in December 2010 and has attended three (3) out of six (6) scheduled appointments to date. In that therapy, [Appellant] recently has reported feeling depressed, angry, hopeless, and overwhelmed but is denying any current suicidal ideation. She could likely benefit from medication management but failed to attend her appointment for a medication assessment in approximately January 2011 and has been rescheduled for a March 2011 appointment. She is not presently on any medications and denies any need for them. [Appellant] admits to having suffered from depression throughout her entire life and despite at least five (5) consecutive years of mental health treatment she continues to exhibit the same symptoms of depression and hopelessness with which she has always struggled. She had previously discontinued her mental health (Dual Diagnosis) treatment with Bridgehaven against their staff advice in September 2010 but only resumed any such treatment in December 2010. She was also referred by the Cabinet to Seven Counties Services for in-home therapy and assistance beginning in November 2010 but she rejected those services and was discharged as non-compliant from them on February 22, 2011.

[Appellant] is presently legally separated from her husband but continues to reside in his home with several of her children…. Her name is not on that deed or lease and [S.C.] has previously kicked her out during a similar period of marital discord. Her current housing, therefore, cannot be considered to be stable.

[Appellant] reports having approximately $3000/month income from various sources but has paid none of the

court-ordered child support for [B.L.H.] since November 2010.

[Appellant] admits that the children who are currently in her custody have varied special needs and require close supervision and care. She admits that some of them are violent and aggressive and that they have varied behavioral and emotional problems that require a team of treatment providers. The Cabinet social worker for this family has expressed grave concerns that [Appellant] is barely maintaining those children's needs and opines that she may not be successful in keeping the children with her long term.

At present, [Appellant] is managing a fragile situation with a house full of children who suffer the effects of past trauma and have resultant behavioral and emotional problems. She is residing with them in the home of a husband she is divorcing and with whom she has had a tumultuous relationship. She has continued to engage in a relationship with each of her previous perpetrators of domestic violence and was recently again victimized by [F.B.] but delayed in taking any protective measures despite her children's exposure to these recent instances of abuse. She discontinued her Dual Diagnosis treatment and is not currently engaged in any substance abuse treatment or any abstinence support group. She is not currently taking any prescribed medication to address her depressive sym[p]toms. She refused to participate in in-home treatment services and has only sporadically attended her newly begun mental health treatment. She admits that she has recently felt overwhelmed, hopeless, angry and depressed and has great difficulty setting and keeping limits with the worst of her abusers, [F.B.], because he "makes you want to give in." While she has made significant progress during the history of her cases, she is struggling to maintain control of her life and to maintain custody of [B.L.H.'s] siblings. It appears that she is currently in no position to assume custody of [B.L.H.] and that it is unlikely she will be able to do so in the foreseeable future given her current circumstances.

The family court also made findings regarding B.L.H. and the positive manner in which he had fared – particularly in terms of his overall health –while in the care and custody of the Cabinet and his foster family:

> The Petitioner child's physical, mental and emotional needs have been met while in the Cabinet's care and custody and the child is expected to make further improvements in these areas upon termination of parental rights. The child's foster home intends to adopt him upon a termination of parental rights and the Cabinet foresees no barriers to that adoption at this time. [B.L.H.] suffers from a chronic lung disorder and asthma, both of which require much diligence in their treatment and maintenance. Due to the care of his foster family, [B.L.H.'s] medical condition has dramatically improved since his removal from [Appellant's] custody. [B.L.H.] also has several developmental delays that require interventions from various therapists and an extremely structured method of care. His foster family has provided the level of care he has required and he has made substantial improvements in his speech and physical abilities.

Based on these findings of fact, the family court determined that terminating Appellant's parental rights was in B.L.H.'s best interest. The court concluded that Appellant had "continuously or repeatedly failed or refused to provide or [had] been substantially incapable of providing essential parental care and protection" for B.L.H. and that "there is no reasonable expectation of improvement in parental care and protection considering the age of the child." The court additionally determined that Appellant had "continuously or repeatedly failed to provide or [was] incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for [B.L.H.'s] well-being"

and that "there is no reasonable expectation of significant improvement in [Appellant's] conduct in the immediately foreseeable future, considering the age of the child."

The family court further determined that the Cabinet had rendered or attempted to render all reasonable services that might be expected to reunite the family and that no additional services were likely to bring about this result. The court finally concluded that the Cabinet had met all of B.L.H.'s needs since removing him from Appellant's custody and that greater improvement in the child's welfare was likely if termination were ordered, particularly in light of the fact that his foster family intended to adopt him.

The family court subsequently entered an Order Terminating Parental Rights and Order of Judgment that terminated Appellant's parental rights and transferred custody of B.L.H. to the Cabinet with the authority to place him for adoption. This appeal followed.

Analysis

On appeal, Appellant contends that the family court erred when it found that all of the requirements that must be satisfied before a person's parental rights may be terminated were met in this case and that the evidence supported terminating her parental rights. "Parental rights are so fundamentally esteemed under our system that they are accorded Due Process protection under the Fourteenth Amendment of the United States Constitution." *Cabinet for Health and Family Services v. A.G.G.*, 190 S.W.3d 338, 342 (Ky. 2006). Consequently,

parental rights "can be involuntarily terminated only if there is clear and convincing evidence that the child has been abandoned, neglected, or abused by the parent whose rights are to be terminated, and that it would be in the best interest of the child to do so." *Id.*; *see also Santosky v. Kramer*, 455 U.S. 745, 769-70, 102 S. Ct. 1388, 1403, 71 L. Ed.2d 599 (1982); *N.S. v. C and M.S.*, 642 S.W.2d 589, 591 (Ky. 1982).

Our review in a termination action "is confined to the clearly erroneous standard in CR [Kentucky Rules of Civil Procedure] 52.01 based upon clear and convincing evidence, and the findings of the trial court will not be disturbed unless there exists no substantial evidence in the record to support its findings." *W.A. v. Cabinet for Health and Family Services, Commonwealth*, 275 S.W.3d 214, 220 (Ky. App. 2008). "Clear and convincing proof does not necessarily mean uncontradicted proof. It is sufficient if there is proof of a probative and substantial nature carrying the weight of evidence sufficient to convince ordinarily prudent minded people." *Rowland v. Holt*, 253 Ky. 718, 70 S.W.2d 5, 9 (1934). In considering an appeal in a termination action, "we are required to give considerable deference to the trial court's findings," and we must bear in mind that "the trial court, as the finder of fact, has the responsibility to judge the credibility of all testimony, and may choose to believe or disbelieve any part of the evidence presented to it." *K.R.L. v. P.A.C.*, 210 S.W.3d 183, 187 (Ky. App. 2006). Mere doubt as to the correctness of a finding does not justify reversal of a trial court. *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003). Ultimately,

"[t]he trial court has broad discretion in determining whether the child fits within the abused or neglected category and whether the abuse or neglect warrants termination." *R.C. R. v. Commonwealth Cabinet for Human Resources*, 988 S.W.2d 36, 38 (Ky. App. 1998).

Under Kentucky Revised Statutes (KRS) 625.090, a person's parental rights may be involuntarily terminated only if, based on clear and convincing evidence, a circuit court finds: "(1) that the child is abused or neglected as defined in KRS 600.020(1); (2) that termination is in the child's best interests; and (3) the existence of one or more of ten specific grounds set out in KRS 625.090(2)." *M.B. v. D.W.*, 236 S.W.3d 31, 34 (Ky. App. 2007). Appellant does not dispute that the Commonwealth has met its burden as to the first element, which is addressed in KRS 625.090(1)(a), in light of her previous stipulation that she had neglected B.L.H. because "the medical records show that she tested positive for cocaine at the time of [B.L.H's] birth." Thus, it is not in issue.

The family court also found that termination of parental rights was in B.L.H.'s best interest, KRS 625.090(1)(b), and that the grounds for termination set forth in KRS 625.090(2)(e) and (g) had been met.[4] Those provisions state as follows:

> (2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

[4] Appellant's brief also contains a discussion regarding KRS 625.090(2)(j). However, the family court did not rely on this provision as a ground for termination. Therefore, we decline to address it any further.

. . . .

> (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
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> . . . .
>
> (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;

As part of determining what outcome would be in the best interest of the child, and whether sufficient grounds for termination existed, the family court was further required to consider several other statutory factors set forth in KRS 625.090(3), including any mental illness of the parents (KRS 625.090(3)(a)); whether there have been other instances of abuse or neglect towards another child in the home (KRS 625.090(3)(b)); the reasonable efforts of the Cabinet to reunify the family (KRS 625.090(3)(c)); the efforts of the parents to return the child to the home (KRS 625.090(3)(d)); the physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is

ordered (KRS 625.090(3)(e)); and payment of support by the parents while the child was in the Cabinet's custody (KRS 625.090(3)(f)).

It appears from the record and the family court's findings that it gave ample consideration to these factors, and from our own review of the record, we cannot say that those findings are unsupported by substantial evidence or that the court abused its considerable discretion in ordering termination of Appellant's parental rights. However, Appellant contends that the family court failed to give enough weight to the evidence regarding her "current and sustained stability" and the fact that she was "ready and able" to take B.L.H. home and meet his needs. While it appears that Appellant has certainly come a long way from the dire straits in which she found herself only a few years ago, the evidence presented to the family court does not compel a different result.

For example, the family court's findings of fact extensively addressed Appellant's longstanding mental health issues and the difficulties those issues have presented her. Appellant has been diagnosed with Major Depressive Disorder and has long suffered from depression, anxiety, and anger management problems. She reported feeling hopeless and overwhelmed – including after a number of her children were returned to her custody – but she discontinued her medication management in November of 2010 and was not on any medications at the time of the termination hearing. Moreover, she had previously discontinued her court-ordered dual diagnosis treatment with Bridgehaven against staff advice in September of 2010 and was discharged from Seven Counties Services as "non-

compliant" in February of 2011 after being referred there by the Cabinet for in-home therapy and assistance. Her other efforts at therapy were similarly sporadic. Although Appellant claimed that she no longer desired medication because of the negative side effects that medication often presented, the family court's concerns about her continued struggles with dealing with her depression – and her corresponding ability to care for B.L.H. and her other children – are understandable.

The family court's findings expressed similar concerns about Appellant's extensive history of substance abuse. Appellant testified that she had maintained her sobriety for 19 months (and drug screens reflected this), but she admitted to previous similar periods of treatment compliance and sobriety followed by relapses. The court also noted that she had discontinued her dual diagnosis treatment prior to completion in September of 2010 and that she had admitted that she was not engaged in any aftercare treatment or other abstinence program. Thus, while there was no dispute that Appellant was sober at the time of the termination hearing and had been so for some time, the circuit court had reason to be concerned about a possible relapse.

In relation to these issues, the family court appeared most concerned about the fact that Appellant had demonstrated a continuing pattern of abusive, and even violent, relationships with a number of men, including B.L.H.'s father, A.C.; another father of her children, F.B.; and her current husband, S.C. The court noted that in counseling Appellant had "repeatedly minimized her abuse and resumed

relationships with her perpetrators." For example, when F.B. was released from incarceration in the summer of 2010, Appellant had a Domestic Violence Order against him amended to an order for "no unlawful contact" and resumed an intimate relationship with him. Although Appellant denies it, Cabinet records reflect that this resulted in a domestic violence incident with her husband and a temporary separation in their marriage. Appellant and her husband separated again in November of 2010 and remained separated at the time of the hearing. Most disturbingly, in February of 2011 – only days before the hearing – Appellant suffered two separate assaults at the hands of F.B., the first being when he choked her and the second being when he "busted" her lip. As noted by the family court, these incidents occurred five days apart, in the presence of her children, and in Appellant's home, but she did not report them to the Cabinet, the court, or the police until after the second incident. As a result of these incidents, the Cabinet was preparing to file new abuse or neglect petitions regarding these children – a number of whom had previously been found to have been abused and neglected and had only recently returned to Appellant's custody.

The family court's findings reflected additional concerns about the overall stability of Appellant's living arrangements and her ability to cope with her current situation. As noted above, at the time of the hearing, Appellant was legally separated from her husband, but she continued to pay rent and to reside in his home with several of her children. Notably, her name was not on the home's deed or lease, and she had left to live in a homeless shelter (whether this was voluntary

or not was disputed) following a previous argument with her husband. Because of this, the court believed Appellant's housing situation to be unstable. The court also noted that Appellant had failed to pay any court-ordered child support for B.L.H. since November of 2010 (although Appellant claimed that this was attributable to instructions from the child-support office). The court further noted that a number of Appellant's children had behavioral and emotional problems requiring close supervision and treatment. The Cabinet social worker for the family testified to her belief that Appellant "is barely maintaining those children's needs" and her opinion that "she may not be successful in keeping the children with her long term." The record also reflects that Appellant missed a number of visits with B.L.H. in the weeks prior to the hearing, although some of those missed visits were due to illness.

Based on these findings, the family court had ample reason to find that at least one of the grounds set out in KRS 625.090(2)(e) and (g) was met and that there was no reasonable expectation of improvement in Appellant's parental care and protection or in her conduct regarding her children. Moreover, and perhaps most notably, the record plainly reflects that B.L.H. has thrived since being in the care of his foster family. As noted in the family court's findings, B.L.H. suffers from a chronic lung disorder, a low immune system, and asthma, which have required extensive medical attention and maintenance, including daily breathing treatments. Those conditions have drastically improved since his

removal from Appellant's custody – largely due to the care of his foster family.[5] The record also supports the court's findings that B.L.H. has several developmental delays that require various therapists and a structured method of care and that his foster family has fully met all of these needs. Because of this, B.L.H. has made considerable improvements in his speech and physical abilities. There is also little question that B.L.H. has forged a significant bond with his foster family during his young life simply from the amount of time he has spent with them. At the time of trial, B.L.H. was two-and-a-half years old and had lived with his foster family for approximately a year-and-a-half of that time. Moreover, B.L.H.'s foster father testified that the family planned to adopt him upon a termination of parental rights. Consequently, the prospects were high for a continued improvement of B.L.H.'s welfare if termination were ordered.[6]

In light of these findings of fact, which are supported by substantial evidence, we simply cannot agree with Appellant that the family court abused its discretion in terminating her parental rights – our ultimate concern on appeal. *See R.C. R.*, 988 S.W.2d at 38. While Appellant disagrees with a number of the court's findings and conclusions, her arguments effectively go to the weight and credibility that the court afforded certain evidence. As discussed above, in such

[5] B.L.H. no longer requires breathing maintenance medications or treatments and had no hospitalizations in the year prior to the hearing.

[6] We further note that the Cabinet social worker was skeptical of Appellant's ability to address B.L.H.'s various health and therapy needs. Indeed, she testified that there was "no way" that Appellant could provide the individual attention that he required.

instances we are required to give considerable deference to the family court. *K.R.L.*, 210 S.W.3d at 187.

For instance, Appellant claims that the Cabinet failed to make reasonable efforts to reunite her with B.L.H. – even suggesting to her that she would never regain custody and encouraging her to voluntarily "give up" her parental rights. However, the record reflects that despite this, the Cabinet (and the family court) offered Appellant a number of services to assist her in regaining control of her life and custody of B.L.H. – including mental health treatment, substance abuse treatment, home parenting and visitation assistance, counseling, medical cards, and food stamps. We also note that Appellant acknowledges in her brief that "[t]he Cabinet has made efforts for years to work with" her and that only its "[r]ecent efforts" with regard to B.L.H. were suspect. Ultimately, the family court had the task of weighing this evidence and choosing what to believe.

Appellant also questions the family court's termination of her parental rights as to B.L.H. when that same court returned to her custody of five of her other children only a short time earlier. However, as discussed above, in February of 2011 – only days before the hearing – Appellant suffered two separate assaults at the hands of F.B. in the presence of her children, as a result of which the Cabinet was preparing to file new abuse or neglect petitions. The family court also heard testimony from Appellant and from a Cabinet social worker suggesting that Appellant was somewhat overwhelmed since the children had been returned to her custody, as well as other evidence raising concerns about her potential for long-

term stability. While the fact that Appellant had regained custody of many of her children was a point in her favor, we do not believe that it mandated a different result under these circumstances.

Appellant also challenges the family court's findings with respect to her mental health/substance abuse treatment history and her current need for such treatment given her lengthy sobriety, but – again – while Appellant certainly presented evidence favorable to her position on these matters, the court was also presented with evidence that supported its ultimate decision. As noted by the court, Appellant had struggled with depression for years and had ongoing difficulties controlling its symptoms. Despite this, she was on no medication at the time of the hearing and evidence was presented suggesting that her recent efforts at therapy were somewhat sporadic. Appellant also had extended periods of sobriety in the past that had come to a halt, in large part, because of her questionable and abusive relationships with men. It is apparent from the evidence that those relationships – and their effect on Appellant's well-being – were still an area of concern at the time of the hearing, so the fact that the family court took a negative view with respect to the status of her mental health/substance abuse treatment is understandable.

Appellant further contends that a court "in its discretion may determine not to terminate parental rights" if "the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent[.]" KRS

625.090(5). However, this provision plainly leaves that option to the discretion of the family court. In this case, the court chose not to proceed in this manner, and we cannot say that the evidence compels a different result.

Moreover, even if we were to disagree with the circuit court as to certain findings, our mere doubt on those matters does not compel a different conclusion where the record contains evidence supporting the court's determination – which it does in this case. *Moore*, 110 S.W.3d at 354. Consequently, while we sympathize with Appellant and applaud what appear to be her genuine efforts to turn her life around, we are compelled to affirm the family court's involuntary termination of her parental rights as to B.L.H.

Conclusion

For the foregoing reasons, the judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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