

RENDERED: JANUARY 31, 2014; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2013-CA-000114-ME

G.T.R.

APPELLANT

v.

APPEAL FROM SPENCER CIRCUIT COURT
HONORABLE JOHN DAVID MYLES, JUDGE
ACTION NO. 12-AD-00003

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; AND
A.D.F.R.

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: COMBS, DIXON AND VANMETER, JUDGES.

DIXON, JUDGE: G.T.R. (“Father”) appeals from a judgment of the Spencer Circuit Court terminating his parental rights, as well as the parental rights of M.D.R. (“Mother”),¹ to A.D.F.R. (“Child”). Finding no error, we affirm.

¹ Mother has not appealed the circuit court’s order.

Child was born September 19, 2004. In October 2011, the Cabinet initiated neglect proceedings against Mother and Father. The Cabinet alleged that Mother and Father used drugs while taking care of Child. Mother and Father stipulated to the risk of neglect, and Child was committed to the Cabinet. In May 2012, the court issued an order changing Child's permanency goal to adoption; thereafter, the Cabinet filed a petition to terminate the parental rights of Mother and Father.

At the termination hearing, Father was represented by appointed counsel, and he testified on his own behalf. Father acknowledged he had recently been convicted of DUI and possession of a controlled substance not in original container, but he repeatedly denied that he had any issues with drugs or alcohol. Father testified that he had a prescription for pain medication and that he received disability income of approximately \$1200.00 per month. The Cabinet presented evidence that showed Father had been non-compliant with his case plan and had failed to pay child support.

The circuit court rendered detailed findings of fact and conclusions of law. The court emphasized that Child deserved a stable and drug-free home. The court found that the Cabinet had provided Father with ample opportunities to address the personal problems that prevented him from being able to care for Child; however, Father refused to cooperate with the Cabinet and take

responsibility for his actions. The court concluded that termination of parental rights was in Child's best interest.²

Father's appointed counsel filed a timely notice of appeal. Counsel filed an *Anders* brief asserting that there were no non-frivolous issues to appeal, and counsel requested that this Court allow him to withdraw as Father's attorney. *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

In *A.C. v. Cabinet for Health and Family Services*, 362 S.W.3d 361, 371 (Ky. App. 2012), this Court concluded that appointed counsel may file an *Anders* brief and motion to withdraw in a termination of parental rights case after "counsel has conducted a thorough, good-faith review of the record and can ascertain absolutely no meritorious issue to raise on appeal." In light of counsel's assertion that the appeal is frivolous, we must conduct our own review of the record to determine whether the appeal is, in fact, without merit.³ *Id.*

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." *Cabinet for Health and Family Services v. A.G.G.*,

² The court recited several factors pursuant to Kentucky Revised Statutes (KRS) 625.090 to support its decision: Child was neglected as defined by KRS 600.020; Father continuously failed to provide essential parental care for Child; for reasons other than poverty alone, Father continuously failed to provide for Child's essential food, clothing, shelter, medical care or education; there was no reasonable expectation that Father's conduct would improve in the immediate future.

³ Pursuant to the procedures set forth in *A.C.*, this Court granted Father thirty days to file a *pro se* brief, and counsel's motion to withdraw was deferred to this panel. Father did not timely file a *pro se* brief.

190 S.W.3d 338, 342 (Ky. 2006); KRS 625.090. The trial court's findings of fact are entitled to great deference; accordingly, this Court applies the clearly erroneous standard of review. Kentucky Rules of Civil Procedure 52.01; *M.P.S. v. Cabinet for Human Resources*, 979 S.W.2d 114, 116 (Ky. App. 1998). Where the record contains substantial evidence to support the trial court's findings, we will not disturb them on appeal. *Id.*

The court rendered specific findings that the statutory requirements for termination were met and that it was in Child's best interest for Father's parental rights to be terminated. After carefully examining the record, we conclude substantial evidence supported the court's determination. We agree with counsel's assertion that there were no meritorious grounds for appeal.

For the reasons stated herein, counsel's motion to withdraw is granted, and we affirm the judgment of the Spencer Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Michael G. Sims
Louisville, Kentucky

BRIEF FOR APPELLEE:

No Brief for Appellee