

Commonwealth of Kentucky
Court of Appeals

NO. 2012-CA-001976-ME

C.A.F.

APPELLANT

v. APPEAL FROM KENTON CIRCUIT COURT
HONORABLE CHRISTOPHER J. MEHLING, JUDGE
ACTION NO. 12-AD-00067

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY;
AND K.M.F., A CHILD

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CLAYTON, DIXON AND MAZE, JUDGES.

CLAYTON, JUDGE: This is an appeal from a decision of the Kenton Circuit Court to terminate appellant, C.A.F.'s, parental rights. Based upon the following, we affirm the decision of the trial court.¹

¹ This opinion was delayed due to administrative handling.

BACKGROUND INFORMATION

C.A.F. is the natural mother of a minor child, K.M.F., the subject of the termination proceeding. K.M.F. was committed to the Cabinet for Health and Family Services (the Cabinet) in July of 2011 as a result of C.A.F. being incarcerated after a probation violation. The original charges stemmed from wanton endangerment charges in the death of K.M.F.'s sibling, another child of C.A.F.

C.A.F. did not appear for the involuntary termination trial. Her counsel moved for a continuance, which was denied. The trial court entered Findings of Fact and Conclusions of Law on October 18, 2012, terminating C.A.F.'s parental rights. Counsel for the appellant filed this appeal in accordance with *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396 (1967) and *C.R.G. v. Cabinet for Health and Family Services*, 297 S.W.3d 914 (Ky. App. 2009). Therefore the appellant has not been able to identify any meritorious issues to present on appeal and requests that the appellate court make an independent review of the record to determine if there is any prejudicial error.

STANDARD OF REVIEW

In reviewing the findings and conclusions of the trial court, we must give deference to the trial court. *V.S. v. Commonwealth, Cabinet for Human Resources*, 706 S.W.2d 420 (Ky. App. 1986). We may not disturb the trial court's findings unless there is no substantial evidence to support them. *R.C.R. v. Commonwealth, Cabinet for Human Resources*, 988 S.W.2d 36 (Ky. App. 1998).

With this standard in mind, we review the findings of the trial court.

DISCUSSION

The trial court held a termination hearing at which it was presented with evidence that C.A.F. had been instrumental in the death of her other child, K.M.F.'s sibling. The trial court also heard evidence regarding C.A.F.'s incarceration for a parole violation, her initial contact with the social worker assigned to the termination case, and the fact that she had not followed up with the social worker.

The trial court found clear and convincing evidence the statutory requirements for termination pursuant to KRS 625.090:

1. K.M.F. was a neglected child as defined in KRS 600.020;
2. C.A.F., for a period of not less than six (6) months, has continuously or repeatedly failed or has refused to provide or has been substantially incapable of providing essential parental care and protection for the child and there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
3. C.A.F. abandoned the child for a period of not less than ninety (90) days;
4. C.A.F., for reasons other than poverty alone, continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonable necessary and available for the child's well-being and there is no reasonable expectation of significant improvement in the parental conduct in the immediately foreseeable future, considering the age of the child;
5. C.A.F. has been consistently unable to care for the immediate and ongoing physical or psychological needs of the child because of the parent's emotional

illness, mental illness, or mental deficiency and the condition has been diagnosed by a qualified mental health professional;

6. C.A.F. has been convicted of causing the death of another child while intoxicated;
7. C.A.F. has a substance abuse history that poses a risk to any child in her care;
8. Termination of parental rights is in the best interest of the child;
9. The Cabinet for Health and Family Services is best qualified to receive custody of the child.

Based upon these findings, the trial court terminated C.A.F.'s parental rights. This decision was not in error. Therefore, we affirm the decision of the trial court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Mary M. Salyer
Covington, Kentucky

BRIEF FOR APPELLEE:

Kelly Sensel Wiley
Covington, Kentucky