

Commonwealth of Kentucky

Court of Appeals

NO. 2013-CA-002159-ME

A.S.M.

APPELLANT

v. APPEAL FROM KENTON CIRCUIT COURT
HONORABLE CHRISTOPHER J. MEHLING, JUDGE
ACTION NO. 13-J-01694

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; and
J.M.M., a Child

APPELLEES

OPINION
VACATING AND REMANDING

** ** * ** * ** *

BEFORE: COMBS, STUMBO, AND THOMPSON, JUDGES.

COMBS, JUDGE: A.S.M. appeals from the adjudication of the Kenton Circuit Court which found that she had neglected her child. After our review, we vacate and remand.

On November 5, 2013, the Cabinet for Health and Family Services filed a dependency, neglect, and abuse petition in the interest of A.S.M.'s child, who had

been born two days earlier. The petition alleged that the child was at risk of abuse and neglect because the court previously found that A.S.M.'s four older children had been neglected.

The record includes a docket sheet entered December 6, 2013, which indicates that an adjudication hearing was held. A handwritten note appears on the lower half of the page: "Stip – Dad on Level III Home Incarceration. Take judicial notice of siblings cases, proceedings and findings[.]" The family court's signature is at the bottom of the page. It is accompanied by a worksheet on which the family court checked a box for NEGLECTED and filled in dates for a disposition hearing. They are the only documents and notations indicating the results of the adjudication.

The order of the court and the record are insufficient for us to conduct a proper review of the merits of this case. Kentucky Rule[s] of Civil Procedure (CR) 52.01 requires a family court to make findings in matters conducted without a jury. The Supreme Court has emphasized that in matters involving children, the requirement is of heightened importance. *Anderson v. Johnson*, 350 S.W.3d 453, 459 (Ky. 2011). In a subsequent opinion, Justice Venters elaborated on the Court's reasoning as follows:

We again state with emphasis that compliance with CR 52.01 and the applicable sections of KRS Chapter 403 requires written findings, and admonish trial courts that it is their duty to comply with the directive of this Court to include in all orders affecting child custody the requisite findings of fact and conclusions of law supporting its decisions. Consideration of matters affecting the welfare

and future of children are among the most important duties undertaken by the courts of this Commonwealth. In compliance with these duties, it is imperative that the trial courts make the requisite findings of fact and conclusions of law to support their orders.

Keifer v. Keifer, 354 S.W.3d 123, 125-26 (Ky. 2011).

While the case before us does not involve custody, we nonetheless believe that the reasoning of *Kiefer* applies. A finding of neglect is a serious matter. The record does not include any facts regarding the original findings pertaining to the other four children or how or why they apply to the child who is the subject of this case. It is possible that the family court's determination is supported by substantial evidence, but we are precluded from affirming the decision due to the lack of written findings.

We vacate the adjudication and remand for additional findings.

ALL CONCUR.

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