

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-000353-ME

P.A.M.

APPELLANT

v. APPEAL FROM KENTON FAMILY COURT
HONORABLE LISA O. BUSHELMAN, JUDGE
ACTION NO. 13-AD-00128

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; and D.S.H.,
AN INFANT

APPELLEES

AND

NO. 2014-CA-000354-ME

P.A.M.

APPELLANT

v. APPEAL FROM KENTON FAMILY COURT
HONORABLE LISA O. BUSHELMAN, JUDGE
ACTION NO. 13-AD-00130

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; and T.A.H.,
AN INFANT

APPELLEES

AND

NO. 2014-CA-000355-ME

P.A.M.

APPELLANT

v.

APPEAL FROM KENTON FAMILY COURT
HONORABLE LISA O. BUSHELMAN, JUDGE
ACTION NO. 13-AD-00131

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; and K.L.H.,
AN INFANT

APPELLEES

AND

NO. 2014-CA-000356-ME

P.A.M.

APPELLANT

v.

APPEAL FROM KENTON FAMILY COURT
HONORABLE LISA O. BUSHELMAN, JUDGE
ACTION NO. 13-AD-00132

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY; and D.H.,
AN INFANT

APPELLEES

OPINION AND ORDER

AFFIRMING

AND GRANTING MOTION TO WITHDRAW AS COUNSEL

** ** * * * **

BEFORE: DIXON, LAMBERT AND TAYLOR, JUDGES.

DIXON, JUDGE: P.A.M. (“Mother”) appeals from judgments of the Kenton Family Court terminating her parental rights, as well as the parental rights of J.S.H. (“Father”)¹ to their minor children, T.A.H. (D.O.B. June 11, 2012), K.L.H. (D.O.B. January 14, 2010), D.H. (D.O.B. January 3, 2009), and D.S.H. (D.O.B. May 10, 2007) (“Children”). Finding no error, we affirm.

K.L.H., D.H., and D.S.H. were committed to foster care on October 16, 2009, until being returned to Mother and Father in March 2010. They were again removed to foster care on June 1, 2012, due to neglect, domestic violence between the parents, poor living conditions and parental drug abuse. Father was incarcerated at the time of the second removal. T.A.H. was subsequently born in June 2012, at which time she tested positive for opiates and remained hospitalized for almost two weeks. She has never been in Mother’s or Father’s care, having lived her entire life in foster care.

In August 2013, the Cabinet filed an action pursuant to KRS 625.050 *et seq.* seeking an involuntary termination of parental rights. A bench trial was conducted on January 14, 2014, wherein Mother and Father were each represented by appointed counsel. At the time of the hearing, Mother was incarcerated for possession of heroin and theft. In addition, she had a prior conviction for prostitution. The testimony and exhibits presented during the proceedings established that both parents have a lengthy history of drug and alcohol abuse. Mother admitted to being a drug addict, with a history of dependence on heroin,

¹ Father has not appealed the circuit court's order.

cocaine and marijuana. Further, the evidence established that the Children witnessed several acts of domestic violence including Father breaking Mother's nose and occipital bone, cutting her with a knife, and punching her in the face.

Ann Patty, the Cabinet's case worker assigned to the family testified that the Cabinet repeatedly attempted to render services in an effort to keep the family together but neither parent cooperated in completing any of the tasks or objectives. Mother and Father were each ordered to pay \$389 per month in child support which neither has done. Ms. Patty further testified that all of the Children are doing well in foster care and are meeting their developmental milestones. She stated that there was a good chance that they would be adopted if parental rights were terminated.

The family court rendered detailed findings of fact and conclusions of law. The court emphasized that the Children had been in foster care continuously since June 2012. Neither parent has had any contact with the children since that time. The family court noted that Mother and Father had an additional child who was born drug addicted and was also in foster care. The court concluded that termination of parental rights was in Children's best interest.²

² The family court recited several factors pursuant to KRS 625.090 to support its decision: Children had been committed to the Cabinet for at least fifteen months preceding the filing of the petition; Children were abused or neglected as defined by KRS 600.020(1); Mother continuously failed to provide essential parental care for Children; for reasons other than poverty alone, Mother continuously failed to provide for Children's essential food, clothing, shelter, medical care or education; there was no reasonable expectation that Mother's conduct would improve in the immediate future.

Mother's appointed counsel filed a timely notice of appeal in this Court. Subsequently, however, counsel filed a motion to withdraw and an *Anders* brief asserting that there were no meritorious issues to appeal. *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), a panel of 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." Pursuant to the procedures set forth in *A.C.*, Mother was granted thirty days to file a *pro se* brief;³ counsel's motion to withdraw was deferred to this panel. *Id.* 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. *Id.*

We have fully reviewed the record in this case and conclude that substantial evidence supports the family court's determination. The family court rendered specific findings that the statutory requirements for termination were met and that it was in the Children's best interest for Mother's parental rights to be terminated. In light of our review, we agree with counsel's assertion that this appeal is frivolous.

For the reasons stated herein, counsel's motion to withdraw is GRANTED, and we affirm the judgment of the Kenton Family Court.

³ Mother did not file a *pro se* brief.

ALL CONCUR.

ENTERED: November 14, 2014

/s/ Donna L. Dixon
JUDGE, COURT OF APPEALS

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