

RENDERED: NOVEMBER 9, 2017; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2016-CA-001776-ME
AND
NO. 2016-CA-001777-ME

A.K.

APPELLANT

v. APPEAL FROM MCCRACKEN CIRCUIT COURT
HONORABLE DEANNA WISE HENSCHER, JUDGE
ACTION NOS. 16-AD-00013 AND 16-AD-00014

CABINET FOR HEALTH AND FAMILY
SERVICES, COMMONWEALTH OF KENTUCKY;
J.L.C.; AND A.J.C.

APPELLEES

OPINION AND ORDER AFFIRMING

** ** * * * * *

BEFORE: ACREE, DIXON, AND STUMBO, JUDGES.

DIXON, JUDGE: A.K. (“Mother”) appeals from two separate judgments of the McCracken Circuit Court terminating her parental rights to J.L.C. and A.J.C. (“Children”). Finding no error, we affirm.

The Children were removed from Mother's care in November 2014, after the Cabinet investigated multiple bruises appearing on the Children's siblings. The Children were subsequently determined to be abused or neglected, and they were committed to the Cabinet in January 2015. The Cabinet filed a petition to terminate Mother's parental rights in March 2016.

At the termination hearing, the Cabinet presented evidence of its investigation, showing that Mother had failed to comply with the Cabinet's case plans, and she had not visited the Children since December 2014. Mother testified on her own behalf. She had been incarcerated for part of 2015, and she acknowledged, after her release, she did not attempt any reunification efforts because she was using illegal drugs. At the time of the trial, Mother was awaiting sentencing on a felony conviction, and she hoped she would be allowed to enter a rehabilitation facility.

The circuit court rendered detailed findings of fact, noting Mother's history of domestic violence, substance abuse, and incarceration. The court found that the Cabinet had offered assistance to Mother in an effort to reunify the family; however, Mother failed to cooperate with the Cabinet. The court emphasized the Children were, at that time, ages five and four, and they had been in foster care for two years. Further, the court found the Children were doing very well in their

foster home and were integrated with their foster family. The court concluded that termination of parental rights was in the Children's best interests.¹

Mother was represented by appointed counsel during the termination proceedings. On appeal, counsel filed an *Anders* brief on behalf of Mother, asserting there were no non-frivolous issues to appeal. *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). Counsel also filed a motion to withdraw as Mother's attorney, and the motion was passed to this panel for consideration.

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 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." We must conduct our own review of the record to determine whether the appeal is, in fact, without merit.² *Id.*

¹ The court recited several factors pursuant to KRS 625.090 to support its decision: The Children were abused and neglected as defined by KRS 600.020; Mother continuously failed to provide essential parental care for the Children; For reasons other than poverty alone, Mother continuously failed to provide essential food, clothing, shelter, medical care or education; The Children had been in foster care for fifteen months preceding the filing of the petition; and Mother failed to make reasonable efforts to change her conduct so the Children could return home.

² Pursuant to the procedures set forth in *A.C.*, this Court granted Mother thirty days to file a *pro se* brief; however, she did not do so.

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.*, 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. CR 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.*

We have carefully reviewed the record and conclude the court’s determination was supported by substantial evidence. The court rendered specific findings that the statutory requirements for termination were satisfied and that it was in the Children’s best interests to terminate Mother’s parental rights. 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 judgments of the McCracken Circuit Court in each of these appeals.

ALL CONCUR.

ENTERED: 11-09-2017

/s/ Donna Dixon
JUDGE, COURT OF APPEALS

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