

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-001298-ME

E.A.G.

APPELLANT

v. APPEAL FROM SHELBY CIRCUIT COURT
HONORABLE S. MARIE HELLARD, JUDGE
ACTION NO. 17-AD-00006

CABINET FOR HEALTH AND FAMILY SERVICES,
COMMONWEALTH OF KENTUCKY AND S.M.G.,
A MINOR CHILD

APPELLEES

OPINION
AFFIRMING

** ** * * * **

BEFORE: J. LAMBERT, MAZE AND SMALLWOOD, JUDGES.

SMALLWOOD, JUDGE: E.A.G.¹ (hereinafter referred to as “Mother”) appeals from: 1) findings of fact and conclusions of law; and 2) order terminating parental rights and order of judgment rendered by the Shelby Circuit Court. Citing *A.C. v.*

¹ Pursuant to the policy of this Court, we will not use the names of the parties involved because this case involves a minor child.

Cabinet for Health & Family Servs., 362 S.W.3d 361 (Ky. App. 2012), and *Anders v. State of California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L .Ed. 2d 493 (1967), Mother’s appointed counsel, Hon. Rebecca A. Smither, states that she can find no meritorious assignment of error in the record. Pursuant to *Anders*, Ms. Smithers has filed a brief requesting that this Court independently review the entire record to ensure that no error can be found entitling Appellant to relief.² Having conducted a thorough review of the record and the law, we find no error and AFFIRM the Judgment on appeal.

The facts are not in controversy. Mother is the biological mother of S.M.G. (hereinafter referred to as “Child 1”), who was born on March 11, 2014. In 2010, the Cabinet for Health and Family Services (“the Cabinet”) filed a petition for dependency, neglect and abuse as to Child 1’s older sibling, S.R.B (hereinafter referred to as “Child 2”). Child 2 was removed from Mother’s custody. After Mother successfully worked her case plan, custody was returned on August 25, 2011.

In 2015, the Cabinet was again involved when, after an investigation, it filed a petition in Shelby Circuit Court alleging that Child 2 and Child 1 were at risk of harm due to: environmental and hygiene issues; failure to meet educational

² Counsel accompanied the brief with a motion to withdraw which was passed to this merits panel. We granted counsel’s motion to withdraw by separate order.

needs as to Child 2; and domestic violence. Both children were removed from custody on November 15, 2015. Child 1 has remained in the custody of the Cabinet since that time.

On December 18, 2015, the Shelby Family Court found Child 1 to be neglected, and Mother stipulated to same. On April 14, 2016, the court rendered a disposition hearing order committing Child 1 to the Cabinet, with Mother having visitation at the discretion of the Cabinet. On December 21, 2016, the court found that Mother and the biological father were not following their case plans toward reunification, and it rendered an order waiving further reasonable efforts to reunite Child 1 and Mother.

On March 28, 2017, the Cabinet filed a petition for involuntary termination of parental rights as to Child 1, and Mother's parental rights were terminated by way of a judgment rendered on June 22, 2017. This appeal followed.

Pursuant to *Anders, supra*, Ms. Smither filed a brief with this Court acknowledging that she could find no reasonable basis for prosecuting an appeal from the judgment terminating Mother's parental rights. Having uncovered no meritorious issues, and as provided for by *A.C.* and *Anders, supra*, Ms. Smither requested that this Court conduct an independent review of the record to determine whether the proceedings below were free from prejudicial error. In its responsive

pleading, the Cabinet concurs with Ms. Smither's reliance on *A.C.* and *Anders*, and agrees that there are no meritorious issues for resolution.

Having conducted a thorough review of the record and the law, we find no issues requiring adjudication. Mother was represented by counsel below and received a full and fair consideration of all of the issues arising from her care of Child 1. Mother failed to complete her case plan despite ample opportunity to do so, and the Shelby Circuit Court properly so found. Mother received the due process to which she was entitled, and the issues raised by the Cabinet were properly resolved. Accordingly, we AFFIRM the findings of fact and conclusions of law, and order terminating parental rights and order of judgment rendered by the Shelby Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Rebecca A. Smither
Louisville, Kentucky

BRIEF FOR APPELLEE CABINET
FOR HEALTH AND FAMILY
SERVICES:

Dana M. Todd
Shelbyville, Kentucky