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NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2019-CA-001467-ME

R.L.C.

APPELLANT

v. APPEAL FROM DAVIESS CIRCUIT COURT
HONORABLE JULIA H. GORDON, JUDGE
ACTION NO. 18-AD-00051

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

APPELLEES

AND

NO. 2019-CA-001468-ME

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HONORABLE JULIA H. GORDON, JUDGE
ACTION NO. 18-AD-00052

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

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, CALDWELL, AND K. THOMPSON, JUDGES.

ACREE, JUDGE: R.L.C. (Father) appeals the Daviess Circuit Court's August 20, 2019 findings of fact and conclusions of law and judgment, terminating his parental rights. He contends the circuit court's best interest determination was not supported by substantial evidence and that he showed an expectation of improvement. Finding no error, we affirm.

BACKGROUND

The Cabinet first became involved with this family in 2012 due to allegations of domestic violence and substance abuse on behalf of Mother¹ and Father. Subsequently, the Cabinet filed a dependency, neglect, or abuse petition on May 31, 2012. That case resulted in the circuit court holding an adjudication hearing and finding M.G.C. neglected, based on domestic violence between the

¹ Mother is not the subject of these appeals. Only Father appealed the termination of his parental rights. Therefore, we will not discuss facts surrounding Mother's case.

parents and the parents' ongoing substance abuse concerns. At that time, the circuit court ordered Father to: (1) participate in supervised visitation; (2) complete a domestic violence assessment; and (3) participate in substance abuse treatment. By June 14, 2013, the parents completed the case plan and M.G.C. was placed in Mother's care. Around that time, Mother and Father had their second child, M.F.A.C.

Six months later, the Cabinet filed another petition to remove the children from Mother's and Father's care, this time due to concerns with Mother's substance abuse.² On March 21, 2014, the circuit court, again, found the children neglected. The children remained with their maternal grandmother until November 9, 2015, when the Cabinet filed an emergency custody petition, the grandmother having tested positive for drug use. The children were then placed in foster care.

When the children were placed in foster care, Father was on probation. Unfortunately, he began missing appointments with his probation officer and failed drug screens. He eventually entered substance abuse treatment but was ultimately discharged before completing the program. This resulted in his incarceration for probation violation. He was released from prison in June of 2016, but he was arrested again three months later.

² At the time, Father was not in contact with the Cabinet due to his incarceration.

After his release on May 31, 2017, Father entered a residential treatment program at Lighthouse Recovery. For approximately six months, he participated in mental health therapy every two weeks, and weekly substance abuse classes. He was permitted to have supervised visitation with his children. Father began successfully moving through the program and obtained both housing and employment. He even began paying child support. However, he soon started missing classes. Nevertheless, he was allowed to move on to the Lighthouse Recovery aftercare program.

Because Father was showing improvement, his visitation increased to supervised visits twice a week and unsupervised time on the weekends. Unfortunately, Father started returning the children late from his unsupervised visits, missed entirely three visits with his children, and canceled thirteen more visits. By October 2018, after a positive drug screen, Father was discharged from Lighthouse's outpatient program for noncompliance.

However, Lighthouse offered Father participation in an in-house program for three months. Despite Father's initial positive start to this third program, he backslid again, and Lighthouse exited Father from its program.

The Cabinet developed a new case plan for Father on December 6, 2018. This time, Father was to complete another substance abuse assessment and mental health assessment. He never provided the Cabinet with documentation of

having completed those assessments. Father was also inconsistent with visitation. Because of this, the Cabinet filed a petition for involuntary termination of parental rights on December 13, 2018.

After a hearing, the circuit court entered findings of fact and conclusions of law and judgment terminating parental rights on August 20, 2019. These appeals followed.

STANDARD OF REVIEW

When the sufficiency of the evidence is challenged on appeal, we are permitted to reverse only if the trial court’s findings of fact are clearly erroneous. *Cabinet for Health & Family Servs. v. I.W., Jr.*, 338 S.W.3d 295, 299 (Ky. App. 2010). All that is needed “is proof of a probative and substantial nature carrying the weight of evidence sufficient to convince ordinarily prudent-minded people.” *M.P.S. v. Cabinet for Human Res.*, 979 S.W.2d 114, 117 (Ky. App. 1998) (citation omitted).

ANALYSIS

Before terminating parental rights, the circuit court must find clear and convincing evidence to support each of three parts of the standard established by KRS³ 625.090. First, the child must have been found to be an “abused or neglected” child as defined by KRS 600.020. KRS 625.090(1)(a). Second,

³ Kentucky Revised Statutes.

termination must be in the child's best interest. KRS 625.090(1)(c). Third, the family court must find *at least one ground* of parental unfitness. KRS 625.090(2).

The record contains sufficient evidence to support the circuit court's decision to terminate Father's parental rights. Here, the circuit court declared the children neglected in 2012 and 2014, and the testimony at the termination hearing supported such a finding. KRS 625.090(1)(a)1. Father makes the argument that he demonstrated there is a reasonable expectation of improvement, making the circuit court's finding unjustified. It is true that Father made great strides in bettering his life; however, he repeatedly failed to prove that to the court. Regardless, the circuit court only needs to find one reason to terminate parental rights. And, it is undisputed the children resided in foster care under the responsibility of the Cabinet for at least fifteen of the most recent forty-eight months preceding the filing of the termination petition on December 13, 2018. KRS 625.090(2)(j); *see also* Record (R.) at 56.

Father also believes the circuit court erred by finding it was in the children's best interest to terminate his parental rights. The circuit court had great difficulty in making this determination, finding that Father and his children have a clear bond and love each other. We sympathize with Father and share the same sentiments as the circuit court. However, we must adhere to the rule of law. We cannot hold the circuit court's findings were clearly erroneous. The Cabinet

proved it was in the children's best interest to terminate parental rights. The Cabinet made reasonable efforts to facilitate reunification by offering Father services and treatment options. KRS 625.090(3)(c). Father failed to fulfill his case plan objectives, despite the Cabinet's services. KRS 600.020(1)(a)9.

The circuit court clearly considered the factors laid out in KRS 625.090(3) and understood the great effect this decision would have on the family. Ultimately, Father failed to prove it would be in the children's best interest to return to his home because he did not make the necessary adjustments to his circumstances rendering it in the children's best interest to return to him. KRS 625.090(3)(d).

CONCLUSION

Upon a thorough review of the whole record, we conclude Father neglected the children and is unfit to parent them. It is in the children's best interest to terminate Father's parental rights. We affirm the August 20, 2019 orders of the Daviess Circuit Court terminating Father's parental rights to his children.

ALL CONCUR.

BRIEFS FOR APPELLANT:

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