

Commonwealth of Kentucky
Court of Appeals

NO. 2022-CA-1412-ME

P.J.

APPELLANT

v.

APPEAL FROM GREENUP CIRCUIT COURT
HONORABLE JEFFREY L. PRESTON, JUDGE
ACTION NO. 21-AD-00028

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES; E.T.; F.V.C.H., A
MINOR CHILD; R.E.; AND R.T.

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: EASTON, LAMBERT, AND McNEILL, JUDGES.

McNEILL, JUDGE: P.J. (Father), appeals from an order of the Greenup Circuit Court, Family Division, terminating his parental rights to F.V.C.H. (Child). The court also entered a judgment of adoption resulting from a petition filed by E.T., Child's maternal grandmother, and R.T., Child's maternal step-grandfather (collectively Grandparents). Father argues that the evidence did not support the

trial court's findings.¹ He specifically asserts that Grandparents have repeatedly blocked and evaded his attempts to have a relationship with Child. Finding no reversible error, we affirm.

STANDARD OF REVIEW

Before addressing the merits, we must clarify that “this is not a termination case governed by KRS Chapter 625; it is an adoption case governed by KRS^[2] Chapter 199.” *C.J. v. M.S.*, 572 S.W.3d 492, 497 (Ky. App. 2019). Thus, it was unnecessary for the trial court to issue separate orders terminating Father’s parental rights and granting the adoption. *Id.* Instead, “we view the judgment of adoption and order terminating parental rights as being one document that comprises the judgment. The effect of the judgment is the adoption of the child at issue. As such, we review the judgment for compliance with the adoption statutes.” *Id.* (internal quotation marks and citation omitted). We review for clear error. *Id.* at 496. Accordingly, “[t]he family court’s findings will not be disturbed unless there exists no substantial evidence in the record to support them.” *C.J.*, 572 S.W.3d at 496. With these general standards in mind, we now turn to the specific statutory requirements at issue here.

¹ Grandparents assert that Father’s argument is not properly preserved. We disagree. Father is not requesting reversal due to alleged insufficient findings by the trial court. Rather, he challenges the sufficiency of the evidence generally.

² Kentucky Revised Statutes.

ANALYSIS

KRS 199.520(1) provides that the trial court shall enter a judgment of adoption if, after a hearing, the court is satisfied that:

the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption.

KRS 199.502 provides additional conditions necessary for adoption without parental consent. It states in pertinent part as follows:

(1) [A]n adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

...

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

...

(g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child[.]

In consideration of these standards, we now return to the record in the present case.

A hearing was held on October 6, 2022, during which the following relevant evidence was introduced. The Cabinet for Health and Family Services became involved with Child upon Child's birth due to Mother's drug use. Grandmother was awarded custody. Father was incarcerated when Child was born. He has had continued involvement with the criminal justice system, including four assault convictions. However, Father testified that he attempted to take a part in Child's life, including an unsuccessful attempt to gain custody. Grandparents testified extensively concerning their care and support for the Child.

After careful consideration of the evidence presented, the family court concluded: (1) all legal requirements for adoption, including jurisdiction, had been complied with; (2) Grandparents were of good moral character, of reputable standing in the community, and have the ability to properly maintain, educate, and nurture Child; and (3), that the best interests if the Child will be promoted by the adoption. Therefore, the dictates of KRS 199.520(1) have been satisfied. The

court also indicated Mother's consent to the adoption, as well as the Cabinet's recommendation of adoption. And in terminating Father's parental rights, the court issued affirmative findings consistent with the requirements of KRS 199.502(1), subsections (a), (e), and (g). The court based its decision, in part, on Father's criminal history, general absence from Child's life, and that Child has been in Grandmother's custody since birth. The record reflects that the court's judgment is supported by substantial evidence. For the foregoing reasons, the Greenup Circuit Court is AFFIRMED.

ALL CONCUR.

BRIEFS FOR APPELLANT:

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BRIEF FOR APPELLEES:

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