

RENDERED: SEPTEMBER 22, 2023; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2022-CA-1541-ME

B.A.N.

APPELLANT

v. APPEAL FROM CAMPBELL CIRCUIT COURT  
FAMILY DIVISION  
HONORABLE RICHARD A. WOESTE, JUDGE  
ACTION NO. 20-AD-00007

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

APPELLEES

AND

NO. 2022-CA-1542-ME

B.A.N.

APPELLANT

v. APPEAL FROM CAMPBELL CIRCUIT COURT  
FAMILY DIVISION  
HONORABLE RICHARD A. WOESTE, JUDGE  
ACTION NO. 20-AD-00008

COMMONWEALTH OF KENTUCKY,  
CABINET FOR HEALTH AND  
FAMILY SERVICES; AND L.D.T., A  
MINOR CHILD

APPELLEES

AND

NO. 2022-CA-1543-ME

B.A.N.

APPELLANT

v. APPEAL FROM CAMPBELL CIRCUIT COURT  
FAMILY DIVISION  
HONORABLE RICHARD A. WOESTE, JUDGE  
ACTION NO. 21-AD-00035

COMMONWEALTH OF KENTUCKY,  
CABINET FOR HEALTH AND  
FAMILY SERVICES, AND Z.M.R., A  
MINOR CHILD

APPELLEES

OPINION  
AFFIRMING

\*\* \*\* \* \* \* \*\*

BEFORE: THOMPSON, CHIEF JUDGE; GOODWINE AND TAYLOR,  
JUDGES.

GOODWINE, JUDGE: B.A.N. (“Mother”) appeals from the October 3, 2022

judgments of the Campbell Circuit Court, Family Division, involuntarily

terminating her parental rights to her three minor children. Due to Mother's failure to state a valid argument on appeal, we affirm.

The Cabinet for Health and Family Services ("Cabinet") filed petitions to involuntarily terminate Mother's parental rights to the three subject children on February 7, 2020, and June 9, 2021. A final hearing occurred over three days – January 3, 2022, August 1, 2022, and August 4, 2022. Mother was present and represented by counsel. Based on evidence presented at the hearing, the family court entered judgments involuntarily terminating Mother's parental rights on October 3, 2022. The following is a summary of the court's extensive findings of facts and conclusions of law.

Mother has seven children, but none are currently in her custody. She voluntarily placed her oldest child with the maternal grandmother. Later, another child was placed with the maternal grandmother. A third is in the custody of fictive kin. Mother's four other children are in Cabinet custody. These appeals involve three children, C.R.T., L.D.T., and Z.M.R, in Cabinet custody.<sup>1</sup>

The Cabinet's involvement with these children began in 2015. Initially, the Cabinet became involved because the two older children, C.R.T. and L.D.T., were found unsupervised outside the home when Mother worked on

---

<sup>1</sup> The youngest of the seven children is also in Cabinet custody but is not the subject of these appeals.

multiple occasions. On these occasions, Mother left the children with their father, B.R.T., who had a severe drinking problem and passed out when the children were in his care.<sup>2</sup>

In 2018, the Cabinet received a report that Mother hit one of the children with a belt and left the children with an inappropriate caregiver. The caregiver allegedly physically and sexually abused the two children.<sup>3</sup> The Cabinet created a safety plan with Mother, which required she not leave the children with the caregiver in the future. However, she allowed him to care for the children after the safety plan was in place. The two older children were then removed from Mother's custody.

The younger child, Z.M.R., was born in 2019. When the child was only four months old, the Cabinet petitioned for his removal because of domestic violence and substance use by the child's father, M.R.<sup>4</sup> Mother attacked the father with a knife, and she ultimately entered an *Alford*<sup>5</sup> plea to assault in the fourth degree. The child was first placed in his grandmother's custody before he was placed in the Cabinet's care in February 2020. Despite the history of domestic

---

<sup>2</sup> B.R.T. is not party to these appeals.

<sup>3</sup> The caregiver was not prosecuted for sexual abuse, but the children have disclosed the abuse to counselors.

<sup>4</sup> M.R. is now deceased.

<sup>5</sup> *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

violence in Mother's relationship with M.R., she maintained the relationship in violation of court orders.

Mother's case plan required her to (1) complete parenting classes; (2) maintain stable housing and employment; (3) participate in therapy; (4) complete classes at the Women's Crisis Center; (5) complete a Comprehensive Assessment and Treatment Services Project ("CATS") assessment; and (5) complete an assessment with Dr. Deters.

Over the course of five years, Mother completed most tasks but did not complete the CATS assessment due to noncompliance. Despite completing many tasks, she did not change her lifestyle to have the children returned to her custody. She did not achieve safety, stability, or appropriate parenting skills. She repeatedly refused to accept responsibility for her actions.

Dr. Deters completed an extensive and specific report on which the family court relied. She met with Mother on five occasions, conducted thirteen observations, completed a home visit, and administered psychological testing. Dr. Deters concluded that Mother could not adequately care for herself without significant assistance and displayed incredibly poor judgment. She also described Mother as having a personality disorder with narcissistic and histrionic features, borderline intellectual functioning, and parent-child relationship problems. Due to her personality disorder, Mother lacked reflective functioning, empathy, and

inability to correct herself. This affected her ability to parent the children. Despite being in therapy for two decades, Mother's condition had not improved. Her full-scale IQ was 75, just above the cut-off for intellectual disability.

The family's Cabinet caseworker testified she did not believe reunifying Mother and the children would ever be safe. Her opinion was based on Mother's continued relationships with domestic abusers, lack of progress, violations of court orders, lack of consistent visitation with the children, and her own lack of self-awareness about her circumstances. According to the caseworker, Mother could not appreciate the danger and protect the children.

Mother testified she had changed her lifestyle but could not articulate any specific changes. Mother testified that she did not understand why she did not have custody of the children. The court found these statements consistent with Dr. Deters's and the caseworker's testimony because they demonstrated Mother's lack of awareness or insight about her circumstances.

The court heard testimony from Mother's therapist but was unconvinced by it. She did not have concerns about Mother's parenting skills. However, she had not observed Mother's interactions with the children and did not have knowledge of the children's mental health issues. The therapist also had not administered any assessments or tests to evaluate Mother. Mother was inconsistent

in her compliance with mental health counseling and medication management throughout the Cabinet's involvement with the family.

Mother pays approximately \$60 per month in child support. She rents a three-bedroom home. Dollar Tree employs her, but she does not have consistent hours. She also works as an exotic dancer at The Playpen, a gentlemen's club. She testified to continuing to work as a dancer despite being offered a promotion at Dollar Tree and having the opportunity to work at her mother's salon.

The court found the needs of the children, especially the two older children, exceeded Mother's abilities. The younger child had no mental health issues, which the court attributed to his young age at the time of removal. He has bonded with his foster family. The older children have been in multiple foster placements and have been institutionalized. They cannot be placed together because of their behaviors and pathological problems. Both suffer from post-traumatic stress disorder and reactive attachment disorder. Dr. Deters attributed their attachment issues to Mother's poor parenting and their poor bonds with family. Both children had eleven adverse childhood experiences ("ACES"), which can lead to "catastrophic outcomes."

The family court concluded the children had previously been adjudged neglected under KRS<sup>6</sup> 625.090(1)(a)1. The court further determined

---

<sup>6</sup> Kentucky Revised Statutes.

termination was in the best interest of the children under KRS 625.090(1)(c) because factors found in KRS 625.090(3)(b), (d), (e), and (f) apply to these cases. Finally, in all three cases, the court found the existence of grounds for termination under KRS 625.090(2)(e) and (j). In the cases involving the two older children, the court also found the Cabinet met its burden under KRS 625.090(2)(c).

The court found no evidence of additional services which could have been provided to Mother. She did not prove the children would not continue to be abused or neglected if returned to her care. The court concluded the Cabinet had made reasonable efforts to reunify the family. The family court involuntarily terminated Mother's parental rights to the three children on these grounds.

Mother timely moved to alter, amend, or vacate the judgments. The family court denied the motions. These appeals followed.

We cannot consider the merits of Mother's appeal without first addressing the significant deficiencies in her brief. "[R]ules of appellate procedure exist for a reason. They are not mere decorations but lights and buoys to mark the channels of safe passage and assure an expeditious voyage to the right destination." *Hamburger v. Plemmons*, 654 S.W.3d 99, 102 (Ky. App. 2022) (internal quotation marks and citation omitted).

First, an appellant's brief must contain a statement of the case which consists "of a summary of the facts and procedural events relevant and necessary to



an understanding of the issues presented by the appeal, with ample references to the specific location in the record supporting each of the statements contained in the summary.” RAP<sup>7</sup> 32(A)(3). Although Mother’s statement of the case includes some citations to the record, it does not meet this standard.<sup>8</sup> Despite their lengthy history, she does not summarize the procedural events of these cases. This Court cannot discern these cases’ factual or procedural history from Mother’s sparse statements. If the purpose of this section of the brief is to provide the Court with a clear understanding of the facts relevant to the issues asserted on appeal, Mother’s statement of the case is woefully deficient.

Furthermore, an appellant’s brief must contain an argument section with ample references to the specific location in the record and citations of authority pertinent to each issue of law and which shall contain at the beginning of the argument a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner.

RAP 32(A)(4). The entirety of Mother’s argument reads as follow:

The case of *B.D. Appellant v. Cabinet for Health and Family Services, Commonwealth of Kentucky and T.B.W., A., Child Appellees, 2014-CA-001051-ME (Ky. App. 2015)* contains all of the relevant law to the within matter. On page 3 thereof it shows the standard for review as Clearly Erroneous. On Page 4 it states that

---

<sup>7</sup> Kentucky Rules of Appellate Procedure.

<sup>8</sup> Mother’s citations to the record do not comply with the formatting rules. RAP 31(E)(3)-(4).

termination must only be done with the utmost caution as it is a very serious matter.

Appellant's Brief at 6.<sup>9</sup> This is entirely insufficient. It contains no references to the record or preservation statement. Mother cites a single case which is not binding precedent because it is unpublished. RAP 41(A). Mother does not explain how this case supports her argument. In fact, she does not in any way present an argument to this Court.

We cannot address the merits of Mother's appeal because it is impossible for this Court to discern any argument from her brief. "We will not search the record to construct [Mother's] argument for her, nor will we go on a fishing expedition to find support for her underdeveloped arguments." *Curty v. Norton Healthcare, Inc.*, 561 S.W.3d 374, 379 (Ky. App. 2018). We decline to expend judicial resources to scour the record and existing authority to entirely create arguments where Mother has failed to raise any specific claim regarding why the termination of her parental rights should be reversed. Therefore, we are left without any discernable issues to address and must affirm the family court's judgments.<sup>10</sup>

---

<sup>9</sup> Citations are to Mother's brief in No. 2022-CA-1543-ME. Her arguments in Nos. 2022-CA-1541-ME and 2022-CA-1542-ME are identical thereto.

<sup>10</sup> We acknowledge Mother's briefing deficiencies and failure to state an argument on appeal are attributable to her counsel. "We expect a greater degree of competency from appellate advocates than has been shown in this case." *Hamburger*, 654 S.W.3d at 102. We remind counsel of his

Due to Mother's failure to state an argument on appeal, the October 3, 2022, Campbell Circuit Court, Family Division, judgments are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Michael L. Schulkens  
Cold Spring, Kentucky

BRIEF FOR APPELLEE:

Kevin Martz  
Covington, Kentucky

---

ethical obligation to competently represent his clients. *See* Rules of the Supreme Court ("SCR") 3.130(1.1).