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NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2023-CA-0357-ME

M.H.

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT
HONORABLE ELISE GIVHAN SPAINHOUR, JUDGE
ACTION NO. 22-AD-00020

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES; C.J.H., A
MINOR CHILD; AND K.A.H.

APPELLEES

AND

NO. 2023-CA-0362-ME

M.H.

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT
HONORABLE ELISE GIVHAN SPAINHOUR, JUDGE
ACTION NO. 22-AD-00021

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

APPELLEES

AND

NO. 2023-CA-0365-ME

M.H.

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT
HONORABLE ELISE GIVHAN SPAINHOUR, JUDGE
ACTION NO. 22-AD-00022

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES; E.R.H., A
MINOR CHILD; AND K.A.H.

APPELLEES

AND

NO. 2023-CA-0369-ME

M.H.

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT
HONORABLE ELISE GIVHAN SPAINHOUR, JUDGE
ACTION NO. 22-AD-00023

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

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, CALDWELL, AND LAMBERT, JUDGES.

LAMBERT, JUDGE: M.H. (the Mother) appeals from the February 22, 23, and 27, 2023, judgments of the Bullitt Circuit Court, Family Division, involuntarily terminating her parental rights to her four minor children. We affirm.

The children involved in these appeals are as follows: C.J.H., a male, born in July 2016; E.R.H., a female, born in November 2017; R.A.H., a female, born in July 2019; and G.A.H., a male, born in July 2021. K.H., the Father, has also appealed in the separate actions of 2023-CA-0373, -0375, -0377, and -0378.

The Cabinet for Health and Family Services (the Cabinet) first became involved with this family in 2019 after the birth of R.A.H.; the allegation at that time was that both parents had abused cocaine the day prior to that child's birth. The Cabinet's records included the additional information that the Father admitted to use of heroin an average of four times a day, that the parents were unemployed, and the family had not had stable housing since the prior November; furthermore, the parents did not have a current place to reside with the children should they remain with them. The three children were placed in the custody of the Cabinet after the parents stipulated to abuse and neglect of them. After the fourth child (G.A.H.) was born in 2021, the Cabinet filed a second petition for his

custody. This time the Cabinet alleged that the parents failed to make significant progress in the 2019 case for the older children, and that the Father tested positive for methamphetamine two weeks prior. The Father and Mother stipulated to dependence on March 4, 2021, and G.A.H. was committed to the Cabinet six weeks later.

Throughout this time, the parents were ordered to submit to or complete the following conditions of their case plans: Parenting assessment, with adherence to required recommendations; random drug screenings; psychological evaluations; and mental health and substance abuse assessments, with adherence to required recommendations. The Cabinet's goal remained to reunify the family.

On March 18, 2022, the Cabinet moved to terminate both parents' rights to all four children based on the parents' failed drug screens and continued lack of progress on the case plans in place. The actions against the Mother and the Father were consolidated and tried together on February 2, 2023. The family court entered its orders terminating parental rights on February 22, 23, and 27, 2023. The parents' separate appeals have been assigned to this panel, but each parent will be given individual attention at the appellate level.¹

¹ The Opinion pertaining to the Father's appeals is also issued on this date.

The Mother argues before this Court that the family court erred in finding that the Cabinet met its statutory burden of proving grounds for termination by clear and convincing evidence. We disagree.

We begin by enunciating our standard of review. The Kentucky Supreme Court provided the following guidance regarding termination of parental rights cases:

[Kentucky Revised Statute (KRS)] 625.090 provides for a tripartite test which allows for parental rights to be involuntarily terminated only upon a finding, based on clear and convincing evidence, that the following three prongs are satisfied: (1) the child is found or has been adjudged to be an abused or neglected child as defined in KRS 600.020(1); (2) termination of the parent's rights is in the child's best interests; and (3) at least one of the termination grounds enumerated in KRS 625.090(2)(a)-(k) exists.

Cabinet for Health and Family Services v. K.H., 423 S.W.3d 204, 209 (Ky. 2014).

The parents had stipulated to abuse and neglect at the temporary removal hearing in 2019 and again to dependency in 2021. Furthermore, the family court considered this requirement with detailed specificity in its findings of fact and conclusions of law. The record supports that determination. Also, the Mother does not contest this issue. Therefore, we hold that the Cabinet satisfied this prong in its burden of proof against the Mother.

Addressing the second prong, whether termination was in the children's best interests, KRS 625.090(3) enumerates the factors for the family

court to consider. Here, the family court focused on five of the statute's six sections (with the exception of subsection (a), the mental illness component, which the family court found did not apply), with over seven pages of detailed findings based upon the testimony, evidence, and record. We find no error in the best interests determination of the family court.

Turning, then, to the Mother's argument that the grounds for termination were not met, we again examine the family court's factual and statutory analysis. Here, the family court held that the evidence supported the Cabinet's allegations under KRS 625.090(2)(e), (g), and (j), namely:

(2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

...

(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;

...

(j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) cumulative months out of forty-eight (48) months preceding the filing of the petition to terminate parental rights[.]

(Emphasis added.) “Under the language of KRS 625.090(2), the existence of only one of the grounds in that section needs to be proven by clear and convincing evidence.” *Commonwealth, Cabinet for Health and Family Services v. T.N.H.*, 302 S.W.3d 658, 663 (Ky. 2010).

The Mother concedes that the children had been in foster care for the requisite amount of time under KRS 625.090(2)(j). However, she argues that she “struggled with keeping employment due to health concerns stemming from multiple financial barriers” caused by “lack of financial resources and living a life of poverty.” The Mother insists that the ongoing caseworker failed in her duty to assist in obtaining stable housing for the Mother. This failure, the Mother continues, prevented her from being able to provide a suitable home for her children. And, because the testimony indicated, other than a failed drug screen in

March 2022, that the Mother had made sufficient progress in her case plans, the Mother asserts that the family court erred in determining that there was no reasonable expectation of improvement per KRS 625.090(2)(e). The Mother testified at the final hearing that she was prevented from working because of her injured back and that she was further hindered from obtaining alternative employment because of the COVID-19 pandemic. The Mother contends that her inability to find a job hindered her from furnishing financial support for the children. Thus, the Mother concludes, poverty alone caused her to lose parental rights to her children; therefore, the family court erred in terminating those rights.

First, we reiterate that the Cabinet need only prove one ground under KRS 625.090(2), and this it has done, especially considering the Mother's concession that KRS 625.090(2)(j) was met. *T.N.H., supra*. Yet the family court found that the evidence supported three grounds, and not, as the Mother urges, for reasons other than poverty alone.² We need not repeat the family court's lengthy findings in support of those three grounds other than to hold that they are supported by substantial evidence. *Bailey v. Bailey*, 231 S.W.3d 793, 796 (Ky. App. 2007).

² For instance, the family court found, based on the Cabinet's testimony and documents, the Mother's significant shortcomings in the areas of parenting skills and of her potential for improvement. The parents' inability to obtain suitable housing was partly based on their unwillingness to re-home their animals rather than prioritize their children's needs.

The Bullitt Circuit Court orders terminating the Mother's parental rights met all three prongs of *K.H., supra*. Accordingly, we affirm the termination of parental rights of the Mother to her four children.

ALL CONCUR.

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