

RENDERED: APRIL 21, 2006; 2:00 p.m.  
NOT TO BE PUBLISHED

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

NO. 2005-CA-000074-MR

COMMONWEALTH OF KENTUCKY, CABINET FOR  
HEALTH AND FAMILY SERVICES

APPELLANT

v. APPEAL FROM JEFFERSON FAMILY COURT  
HONORABLE PATRICIA WALKER-FITZGERALD, JUDGE  
ACTION NO. 04-J-501251

MARVIN GOODMAN

APPELLEE

OPINION  
AFFIRMING

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BEFORE: BUCKINGHAM, JOHNSON, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: The Commonwealth of Kentucky, Cabinet for Health and Family Services appeals from a December 8, 2004, order of the Jefferson Family Court denying entry of an agreed judgment of paternity. We affirm.

This action was initiated by the county attorney on behalf of the Cabinet for Health and Family Services and Inell Goodman for the purpose of establishing paternity, child support, and medical support. See Kentucky Revised Statutes

(KRS) 406.021. Inell Goodman was the guardian and paternal grandmother of the minor child.<sup>1</sup> The putative father, Marvin Goodman, was named as a defendant; however, the biological mother, Stephanie Robb, was not named as a party to the action.

By order entered August 26, 2004, the circuit court pointed out that the biological mother had not been joined as a party. The court concluded the biological mother was a necessary party under Ky. R. Civ. P. (CR) 19.01 in a paternity action pursuant to KRS 406.021, thus requiring dismissal of the action.

On November 3, 2004, appellant filed a motion to set aside the August 26, 2004, order pursuant to CR 60.02(f). The court denied appellant's motion by order entered December 8, 2004. This appeal follows.

Appellant contends the circuit court erred by determining that a biological mother is a necessary party to a paternity action. Appellant devotes the entire argument in its brief to the merits of this contention. In so doing, appellant fails to argue or demonstrate why it is entitled to the extraordinary relief available under CR 60.02. In fact, appellant does not cite a single authority to support relief under CR 60.02.

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<sup>1</sup> Inell Goodman died during the pendency of the action, and pursuant to this Court's order of February 27, 2006, Goodman was dismissed as a party and the appeal proceeded on behalf of the Commonwealth of Kentucky, Cabinet for Health and Family Services.

It is well-established that a movant must affirmatively demonstrate entitlement to relief under CR 60.02. McQueen v. Commonwealth, 948 S.W.2d 415 (Ky. 1997). In this appeal, appellant has simply failed to do so.

Additionally, our courts have clearly held:

CR 60.02 is not a separate avenue of appeal to be pursued in addition to other remedies, but is available only to raise issues which cannot be raised in other proceedings.

Id. at 416. Herein, appellant is merely arguing that the circuit court erred as a matter of law in determining the biological mother was a necessary party to a paternity action under KRS 406.021. This legal issue clearly could have been raised by appellant in a direct appeal. A motion under CR 60.02 is not a proper avenue to correct mistakes of law. James v. Hillerich & Bradsby Co., 299 S.W.2d 92 (Ky. 1957).

Accordingly, we hold that appellant has failed to demonstrate entitlement to the extraordinary remedy available under CR 60.02.

For the foregoing reasons, the order of the Jefferson Family Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FOR APPELLEE

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