

RENDERED: FEBRUARY 17, 2006; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky
Court of Appeals

NO. 2005-CA-000250-ME

B.B.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE JO ANN WISE, JUDGE
ACTION NO. 04-AD-00019

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY SERVICES; AND
A.E.B., AN INFANT, AND L.N.B., AN INFANT

APPELLEES

OPINION
AFFIRMING

** ** * * *

BEFORE: BARBER AND McANULTY, JUDGES; MILLER, SENIOR JUDGE.¹

BARBER, JUDGE: Appellant, B.B., appeals, pro se, the Fayette Circuit Court decision terminating his parental rights. We affirm the decision.

B.B. is the father of two minor children, one born in 1993 and one born in 1999. B.B. was not married to the

¹Senior Judge John D. Miller sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

children's mother. The Cabinet was involved with the parents and the oldest child during the first year after he was born when the mother tested positive for drugs and alcohol. Additional neglect charges were brought during the first few years of the child's life. The child was first removed from the home in 1995. The child remained in foster care for one year, when he was placed with B.B. At some point thereafter B.B. voluntarily returned custody of the child to the mother, A.B.

After the younger child was born, in 1999, both mother and child tested positive for marijuana. Both children were removed from the home in late 1999 when the mother was found passed out with the children unsupervised. The children were returned to both parents shortly thereafter with instructions that the mother never be left alone with the children. Several months later the children were again found unsupervised with the mother seriously intoxicated. At that time the children were placed with the maternal grandmother and the maternal aunt. In February, 2000 the children were again returned to their mother. They were again removed when the mother was arrested in October, 2000. The children were later returned to the care of the maternal grandmother. A.B. served six months in jail. The children were returned to her care in February, 2002. They were removed in May, 2002 due to neglect and placed in foster care. In August, 2002 the maternal aunt again took custody of the

children. In July, 2003 the aunt gave up care of the children following an incident with the mother.

In October of 2003 the circuit court entered an order relieving the Cabinet from providing further reunification services to the parents and the children. The parental rights of both parents were terminated in December, 2004. The children have been in foster care with no contact with the parents since that time. The foster care placement appears stable, and the report of the guardian ad litem shows that the foster parents seek to adopt the children.

The Cabinet argues that B.B. has failed to show reversible error in the trial court's ruling. The Cabinet shows this Court that B.B. was in jail for nine months in 1995, ten months in 1998, three years beginning in 2000, and is presently serving an extended sentence. Since 2000 B.B. has only spent four months out of jail. The Cabinet asserts that B.B. is facing a twenty-plus year sentence.

B.B. contends that he has gainful employment; that he was released from prison on 10-20-05, and is planning to attend the University of Kentucky. He is living at a halfway house and allegedly complying with all requirements. He volunteers at the Hope Center, and has completed a substance abuse rehabilitation program. He argues that he is willing and able to parent his children and should be permitted to do so.

While this Court commends B.B. for attempting to put his life back on track, the Court recognizes that he is still under the supervision of the courts and will remain on probation for many years. Any repeated offense or failure to comply with the terms of the halfway house or probation officer could result in a lengthy imprisonment. At the time the trial court entered its order B.B. was incarcerated and serving a ten year sentence. Such circumstances did not make placement with B.B. a viable option at the time the trial court's ruling was entered. In a case where the emotional and stability needs of growing children are an issue, a delay can be very harmful to the children. Bryant v. Kentucky Department of Human Resources, 548 S.W.2d 165, 167 (Ky.App. 1977). We find no reversible error in the court's determination that B.B.'s parental rights must be terminated.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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