

Commonwealth Of Kentucky

Court of Appeals

NO. 2005-CA-001168-ME

E. W. B.

APPELLANT

v.

APPEAL FROM PIKE FAMILY COURT
HONORABLE LARRY E. THOMPSON, JUDGE
ACTION NO. 03-AD-00032

C. N.; L. N.; AND
A. F. B., A CHILD

APPELLEES

OPINION
AFFIRMING

** ** * * *

BEFORE: COMBS, CHIEF JUDGE; DYCHE AND KNOFF, JUDGES.

DYCHE, JUDGE: This appeal is brought by the natural father of a daughter born May 1, 1991; the child's mother voluntarily terminated her parental rights to the child and consented to her adoption by the maternal grandparents. The father appeals from an order and judgment of the Pike Family Court terminating his rights and allowing the maternal grandparents to adopt the child. Having reviewed the record, watched the videotape of the hearing, and carefully considered the father's arguments and the report of the Guardian ad Litem, we affirm.

The father and mother of the child never married, but following her birth they continued a relationship for approximately a year and one-half. During that time, the child and her mother lived with the adoptive parents. After the relationship ceased, the father continued to exercise visitation rights for about six more months. The payment of child support by the father was intermittent, and an arrearage accumulated.

The adoptive parents were granted custody of the child in 1998, and in 2003 filed the petition for adoption. The father had had no contact with the child between 1999 and May of 2003, and failed to pay support on any sort of regular basis, missing months at a time. He only became near-current after jail was a distinct possibility. He never sought visitation or made any significant attempt to see the child.

On appeal, the father first argues that he cannot be considered to have abandoned the child because his support obligation was current at the time of the hearing. It is true, as he argues, that failure of support is not, generally, in and of itself sufficient to establish abandonment. But that, together with the father's absence from the child's life for substantial periods of time, is sufficient. He gave no reason whatsoever for this behavior. His testimony was unconvincing.

The other arguments put forth by the father have no merit. His attempt to blame others holds no water. The only

thing in the father's favor is the report of the Guardian ad Litem; we will say that the Guardian did a very good job, and represented the interests of the child well. It is unfortunate the father did not put forth that kind of effort. The necessary statutory factors were proven by clear and convincing evidence.

The judgment of the Pike Family Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Agnes D. Sipple
Pikeville, Kentucky

BRIEF FOR APPELLEES C. N. AND
L. N.:

Kathryn Burke
Pikeville, Kentucky

BRIEF FOR GUARDIAN AD LITEM:

Della M. Justice
Pikeville, Kentucky