

Commonwealth of Kentucky

Court of Appeals

NO. 2007-CA-000503-ME

T.J.T.T.H. AND C. M. H.

APPELLANTS

v. APPEAL FROM PIKE CIRCUIT COURT
HONORABLE LARRY E. THOMPSON, JUDGE
ACTION NO. 05-AD-00033

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

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: ACREE AND LAMBERT, JUDGES; ROSENBLUM,¹ SENIOR JUDGE.

LAMBERT, JUDGE: T.J.T.T.H. and C.M.H. appeal the Judgment of Voluntary

Termination of their parental rights. For the reasons set forth herein, we affirm the

judgment of the Pike Family Court.

¹ Senior Judge Paul W. Rosenblum, sitting as Special Judge by Assignment of the Chief Justice pursuant to Section 110 (5)(b) of the Kentucky Constitution and KRS 21.580.

On July 22, 2005, the Cabinet for Health and Family Services filed a petition for involuntary termination of Appellants' parental rights. On January 17, 2007, the Appellants advised the court that they wished to do a voluntary termination of their parental rights. The Appellants, after being sworn by the court, attested that they understood the significance and ramifications of voluntarily relinquishing their parental rights and further that they were not being coerced to do so nor were they under the influence of drugs or alcohol which would affect their judgment. The court stated that it found that their relinquishment of their parental rights was voluntary and in the best interest of the children.

Appellants now appeal the Judgment based on their assertion that there is no evidence or waiver by them on which to base the Judgment of Termination. They assert that the court was required to maintain a record of the proceedings for five years pursuant to KRS 625.080, and since no such record exists it is impossible to uphold the Judgment. They further assert that they never requested the termination proceedings be switched to voluntary termination, and they contend that the absence of the record is enough to support such a claim. We disagree.

It has long been held in Kentucky that when the complete record is not before an appellate court, the court must assume that the omitted record supports the decision of the trial court. *See Commonwealth v. Thompson*, 697 S.W.2d. 143, 145 (Ky. 1985); *Comm. Dept. of Highways v. Richardson*, 424 S.W.2d 601, 603 (Ky. 1968). In this case, it appears the video equipment in the Pike Family Court malfunctioned, and the

Appellants' testimonies were not recorded. However, CR 75.13 provides for this event by permitting the Appellants to prepare and submit narrative statements. This was not done on this appeal; therefore, we must follow well-established Kentucky law and assume that the omitted record supports the decision of the trial court.

Accordingly, we affirm the Judgment of the Pike Family Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

W. Sidney Trivette
Pikeville, Kentucky

**BRIEF FOR APPELLEE CABINET FOR
HEALTH AND FAMILY SERVICES:**

David T. Adams
Assistant Counsel, Office of Legal
Services
Cabinet for Health & Family Services
Paintsville, Kentucky

**BRIEF FOR APPELLEES, GUARDIAN
AD LITEM FOR MINOR CHILDREN:**

Clarissa Mauree Friend
Pikeville, Kentucky