

Commonwealth Of Kentucky
Court of Appeals

NO. 2007-CA-000756-ME

R.L.O., FATHER

APPELLANT

v. APPEAL FROM KENTON CIRCUIT COURT
HONORABLE CHRISTOPHER J. MEHLING, JUDGE
ACTION NO. 06-AD-00068

COMMONWEALTH OF KENTUCKY, CABINET FOR
HEALTH AND FAMILY SERVICES; P.S.T., MOTHER;
B.S.T., AN INFANT; A.M.T., AN INFANT;
K.G.O., AN INFANT; AND K.L.O., AN INFANT

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: CAPERTON, LAMBERT, AND THOMPSON, JUDGES.

THOMPSON, JUDGE: R.L.O.(father) appeals from orders of the Kenton Family Court terminating his parental rights to his two infant children, K.L.O. and K.G.O., born on July 31, 2000. After having made a thorough review of the record, we conclude there was no error and affirm.¹

¹ Four children were the subject of the termination proceeding. The mother of the children consented to voluntary termination of her rights to all four children. Two of the children are not father's natural children. The father of K.L.O. and K.G.O. is the only appellant.

On July 15, 2001, at 1:00 a.m., the children and three of their siblings and two unrelated children were found in the parking lot of a Target store. The Cabinet became involved with the family and a verbal emergency custody order was issued. It was subsequently rescinded and custody was returned to the mother. However, on August 2, 2005, the Cabinet filed a second petition because of the mother's consistent failure to appear for drug screens. The children were placed in foster care where they remained on the date of the termination hearing held on February 9, 2007.

The record reveals that the Cabinet has offered a variety of services to father including counseling, domestic violence assessment, and treatment for alcohol and substance abuse. Father was also provided information as to how to obtain suitable housing. Yet, he has repeatedly failed to take advantage of the services.

As the court noted in its findings of fact, father has numerous convictions for disorderly conduct and/or alcohol intoxication and seven protective orders issued against him in domestic violence cases. He was also convicted of assaulting his step-child. Medical records indicate that he frequently sought medical assistance for the sole purpose of obtaining prescription medication. He has never retained steady employment and has supported his family with only charitable donations.

Father's appellate counsel filed a brief stating that counsel was unable to find any error that would entitle father to relief from the family court's termination order. Despite counsel's concession, as a result of the constitutional implications of a termination of parental rights case and applying the reasoning expressed in *Fite v.*

Commonwealth, 469 S.W.2d 357 (Ky. 1971), we have independently reviewed the record. We conclude there was no error.

Our standard of review in an involuntary termination case is “confined to the clearly erroneous standard in CR 52.01 based upon clear and convincing evidence, and the findings of the trial court will not be disturbed unless there exists no substantial evidence in the record to support its findings.” *M.P.S v. Cabinet for Human Resources*, 979 S.W.2d 114, 116 (Ky.App. 1998) *citing V.S. v. Commonwealth, Cabinet for Human Resources*, 706 S.W.2d 420, 424 (Ky.App. 1986).

KRS 625.090 sets forth the grounds for the involuntary termination of parental rights. First, the court must find by clear and convincing evidence that the child has been abused or neglected as defined in KRS 600.020(1). KRS 625.090(1). It must then find by clear and convincing evidence the existence of at least one of the enumerated statutory grounds for the termination of parental rights. KRS 625.090(2). Finally, the court must consider the factors set forth in KRS 625.090(3) and find that termination is in the child’s best interest.

The family court found the children to be abused and neglected and further found the following multiple grounds for termination of father’s rights: (1) he has continuously and repeatedly inflicted or allowed to be inflicted upon the children emotional harm by his acts of domestic violence, alcohol intoxication and drug addiction; (2) father continuously and repeatedly failed or refused to provide essential parental care and protection for the children for a period of not less than six (6) months and that there is no reasonable expectation of parental care and protection considering the age of the children; (3) for reasons other than poverty alone, he has continuously and repeatedly

failed to provide or has been incapable of providing essential food, clothing, shelter, medical care, and educational needs reasonably necessary and available for the children's well being and there is no reasonable expectation of significant improvement in his conduct in the near and foreseeable future, considering the age of the children; and (4) the children have been in foster care under the responsibility of the Cabinet for fifteen of the most recent twenty-two months proceeding the filing of the petition to terminate the parental rights. KRS 625.090(2)(c), (e), (g), and (j).

Having considered all relevant factors, including the Cabinet's attempts to reunite the children with their father, father's lack of improvement in developing parenting skills, and that the children had improved while in foster care, the court found that termination of father's parental rights to be in the children's best interests.

The family court made detailed findings of fact to support its decision that father's parental rights be terminated. Having reviewed these findings of fact, we conclude that the findings are supported by substantial evidence and, therefore, are not clearly erroneous. The family court properly applied the termination statute and applicable law in rendering its order.

For the foregoing reasons, the orders of the Kenton Family Court terminating father's parental rights are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

J. Richard Scott
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BRIEF FOR APPELLEE, CABINET
FOR HEALTH AND FAMILY
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