

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

NO. 2025-CA-0364-ME

S.G.F.<sup>1</sup>

APPELLANT

v.

APPEAL FROM MEADE CIRCUIT COURT  
HONORABLE BRUCE T. BUTLER, JUDGE  
ACTION NO. 22-AD-00036

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

APPELLEES

OPINION  
AFFIRMING

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BEFORE: CETRULO, L. JONES, AND LAMBERT, JUDGES.

LAMBERT, JUDGE: S.G.F. (hereinafter “Mother”) appeals from the Meade Circuit Court’s February 18, 2025, judgment terminating her parental rights to M.F., her minor daughter (hereinafter “Child”). After careful review of the briefs, record, and law, we affirm.

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<sup>1</sup> Pursuant to Court policy, to protect the privacy of minors, we refer to parties in termination of parental rights cases by initials.

## **BACKGROUND FACTS AND PROCEDURAL HISTORY**

In December 2022, the Cabinet for Health and Family Services (hereinafter “the Cabinet”) filed a petition seeking to terminate Mother’s parental rights to Child. The court held a final hearing on September 26, 2024, and on January 30, 2025. During the hearing, the court heard testimony from the social worker assigned to the family from December 2018 to present, Child’s paternal aunt and uncle (hereinafter collectively referred to as “the Caregivers”), with whom Child has resided since she was removed from Mother’s custody on October 29, 2018, Mother, and Child’s maternal grandparents. Over Mother’s objection, the court also admitted into evidence as the Cabinet’s exhibit a certified copy of the court record from the underlying dependency, neglect, and abuse (“DNA”) action.

After the close of proof, on February 18, 2025, the court entered findings of fact, which we will summarize: The Cabinet became involved with the family in 2018 after Norton Hospital reported possible medical neglect. The report stated that Child, who was then nine months old, could not maintain a healthy weight in Mother’s care and was dehydrated and failing to thrive, but these issues resolved when Child was fed by hospital staff. The report also stated that Mother was insisting Child needed to have a feeding tube inserted and that she had

declined recommended interventions to address the Child's inability to sit up, roll over, or hold her own bottle.

In October 2018, Child's paternal uncle filed a DNA petition based on the same facts and sought emergency custody of Child. Emergency custody was granted, and Child has continued to reside with the Caregivers continuously throughout the proceedings.<sup>2</sup> The court adjudged that Child was abused or neglected, pursuant to Kentucky Revised Statutes ("KRS") 600.020(1)(a)1., 4., and 8., by Mother's failure to tend to her developmental and feeding needs. In May 2019, the court entered dispositional orders requiring Mother to cooperate with the Cabinet, to complete an assessment by Dr. Feinberg for parental capacity, and to complete a parenting assessment. In April 2020, the Court also ordered Mother to complete a mental health assessment and to enroll and actively participate in parenting classes.

Mother was not compliant or cooperative. She failed to respond to the social worker's requests to schedule home visits, and, when visits did occur, she denied the social worker full access to the residence. Mother refused to participate in her required mental health treatment, and she did not sincerely participate in parenting classes. Mother did not timely complete the ordered assessment by Dr. Feinberg, and she was only minimally compliant with that assessment. On two

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<sup>2</sup> The Cabinet has had legal custody of Child since March 2, 2022.

occasions Mother cancelled Child's medical appointments. One was with the Child's neurologist, and Mother did not inform the Cabinet or the Caregivers of her actions. The second appointment was for an autism assessment, and Mother falsely claimed to the social worker that the provider had cancelled the appointment. Mother also made medical appointments for the Child without informing the Cabinet, despite not having custody of her, and then sought documentation from the providers that she was the only one in attendance.

Additionally, Mother refused to follow directions in her interactions with Child. As a result, the Cabinet, a third-party visitation service, and a family friend all refused to continue supervising her visits with Child. The Cabinet ultimately resumed supervision services with strict guidelines, as set out in a December 2023 order, but in August 2024 Mother was found in contempt for violating those terms. Mother has never achieved unsupervised visits during the six years following Child's removal. Court-ordered parent-child interactive therapy was discontinued in December 2024 at the therapist's recommendation due to Child's discomfort and a lack of progress in forming a beneficial bond. After all this time, Mother is unable to recognize why Child was removed, her role in that removal, and why Child's welfare would be in danger if she were returned to Mother's care.

When Child was placed with the Caregivers, she made tremendous strides. She gained weight without difficulty, she was able to discontinue prescribed oxygen, and her developmental delays were remedied. Child is integrated into the Caregivers' family, and the Caregivers desire to adopt her. Child is thriving, and her health and wellbeing are expected to continue to improve upon termination of parental rights.

Based on the above, the Court concluded that the Cabinet had met the statutory requirements for involuntary termination of parental rights ("TPR") and that Mother had failed to prove that Child would not continue to be abused or neglected if returned to her care.<sup>3</sup> Accordingly, the court terminated Mother's parental rights, and this appeal timely followed.

### **ANALYSIS**

Mother raises two issues on appeal: (1) the court committed reversible error when it admitted a certified copy of the entire DNA record that was rife with unsubstantiated hearsay and based its findings thereon, and (2) the

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<sup>3</sup> TPR actions are governed by KRS 625.090. TPR may be granted only if the circuit court finds that a three-pronged test has been met by clear and convincing evidence. *Id.* First, the child must be deemed abused or neglected as defined by KRS 600.020(1). KRS 625.090(1)(a). Second, the circuit court must find the existence of at least one statutory ground for termination listed in KRS 625.090(2). And third, termination must be found to be in the best interest of the child after consideration of the factors listed in KRS 625.090(3). If, however, the parent proves by a preponderance of the evidence that the child will not continue to be abused or neglected if returned to parental care, the court may deny TPR. KRS 625.090(5).

court findings are based on inadmissible hearsay from the social worker. We review evidentiary rulings for an abuse of discretion. *Mason v. Commonwealth*, 559 S.W.3d 337, 342 (Ky. 2018). However, an error in the admission of evidence is not grounds to disturb a judgment unless the denial of such relief is inconsistent with substantial justice. *Id.* at 340.<sup>4</sup> With this standard in mind, we will address Mother's claims in turn.

We begin with Mother's contention that the court erred in admitting over her objection a certified copy of the entire DNA file. Mother, through counsel, acknowledged during the final hearing that the court could take judicial notice of the DNA record.<sup>5</sup> But she nevertheless objected to the admission of the exhibit, arguing it was so large that it was impossible to tell what portions the Cabinet or the court was relying on. Because her objection before the circuit court did not raise the issue of hearsay, her claim on appeal is not preserved, and we shall not address it further. *Norton Healthcare, Inc. v. Deng*, 487 S.W.3d 846, 852 (Ky. 2016). Instead, we shall limit our review to whether the court improperly relied on the exhibit and rendered findings supported exclusively by hearsay from the DNA records.

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<sup>4</sup> The opinion quotes Kentucky Rules of Criminal Procedure ("RCr") 9.24, which is substantively identical to the applicable Kentucky Rules of Civil Procedure ("CR") 61.01.

<sup>5</sup> See Kentucky Rules of Evidence ("KRE") 201 and *S.R. v. J.N.*, 307 S.W.3d 631, 636-38 (Ky. 2010).

Although Mother asserts that the court “heavily relied” on incompetent evidence in the DNA file for its findings of fact, she only specifically identifies two references to Dr. Feinberg. The complained of findings are: (1) that the DNA court adopted the Cabinet’s treatment recommendation for Mother to complete an assessment with Dr. Feinberg, and (2) that Mother “was referred for a parental capacity evaluation with Dr. Feinberg, which could have shed light on her parenting abilities, but she was only minimally compliant with the evaluation.” She argues these findings could only be based on hearsay evidence because Dr. Feinberg did not testify.

We are unpersuaded that the court erred. Even though Dr. Feinberg did not testify, the court’s findings are supported by competent evidence. In the May 9, 2019, dispositional order from the DNA proceedings, the court formally adopted the Cabinet’s recommendation that Mother undergo an assessment by Dr. Feinberg. That Mother did not comply with this requirement is evidenced by subsequent orders on November 20, 2019, April 6, 2020, and June 15, 2020, for her to schedule the appointment and to complete the assessment. Additionally, the social worker testified that Mother initially would not schedule the appointment or follow through with it and that she would not complete the questionnaire for the assessment. Accordingly, Mother’s claim that the court improperly relied on incompetent evidence from the DNA file is without merit.

Next, we address Mother's contention that the circuit court's findings of fact are based on hearsay from the social worker. Mother has not, however, identified the substance of the challenged testimony, and she merely states that "it appears that many of [the findings of fact] that might not be derived from [the DNA file] were derived from the hearsay testimony of [the social worker]." Mother's failure to specifically identify the testimony at issue and the corresponding findings of fact hampers this Court's ability to adequately review her claim. It is not the role of the appellate court to craft a party's argument. *See Hadley v. Citizen Deposit Bank*, 186 S.W.3d 754, 759 (Ky. App. 2005). Nevertheless, because this is a TPR case and Mother has included a relatively limited citation to the video record, we have elected to review the merits of the claim to the best of our ability.

At issue is the social worker's recounting of how the Cabinet became involved with the family, including the allegations from Norton Hospital that Mother failed to adhere to the feeding schedule, her insistence that Child receive a feeding tube when it was not necessary, Child's improvement when kept on the feeding schedule, Child's developmental delays, and Mother's refusal to follow through with or permit remedial services. The court's findings do reference these facts. However, the admission of incompetent evidence in a bench trial is harmless



error if other competent evidence proves the matter in issue. *Prater v. Cabinet for Health & Human Res.*, 954 S.W.2d 954, 959 (Ky. 1997).

Here we need not determine whether the challenged testimony was impermissible hearsay because there was additional, competent evidence in the record to support the court's findings. Specifically, the court found in the DNA adjudication order that Mother had failed to properly follow up on Child's developmental delays, that she fed Child approximately a fourth of what Child should have been receiving, that, despite Mother's claims that Child would not eat, Child ate well at the hospital and with the Caregivers, and that Mother continued to insist on the insertion of a feeding tube when it was not indicated by the symptoms. Additionally, the Caregivers testified regarding Child's specific developmental delays when she entered their care and that she did not have difficulty eating while in their care. Consequently, Mother has failed to demonstrate that the admission of the social worker's testimony resulted in a reversible error.

### **CONCLUSION**

For the foregoing reasons, the order of the Meade Circuit Court terminating Mother's parental rights is AFFIRMED.

ALL CONCUR.

**BRIEFS FOR APPELLANT:**

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**BRIEF FOR APPELLEE  
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