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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0616-ME

J.S. APPELLANT

v.

APPEAL FROM CLARK CIRCUIT COURT
HONORABLE NORA J. SHEPHERD, JUDGE
ACTION NO. 25-J-00174-002

COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES; C.S., A MINOR CHILD; AND J.S. APPELLEES

OPINION
AFFIRMING

** ** ** ** **

BEFORE: THOMPSON, CHIEF JUDGE; EASTON AND ECKERLE, JUDGES.

THOMPSON, CHIEF JUDGE: J.S.[1] (Appellant) appeals from an adjudication order entered on December 8, 2025, by the Clark Family Court finding his biological child (Child) to be neglected or abused, and a disposition order entered on January 29, 2026, finding that removal of Child from the home and placement

[1] We will not use Appellant's name because this is a dependency, neglect, and abuse proceeding.

with the Commonwealth of Kentucky, Cabinet for Health and Family Services (the Commonwealth or CHFS) was in Child's best interests. Appellant argues that the family court erred in failing to conclude that the Commonwealth did not produce sufficient proof for a finding of neglect or abuse, and erred in allowing the introduction of certain videos. After careful review, we find no error and affirm the orders on appeal.

FACTS AND PROCEDURAL HISTORY

On September 30, 2025, the Commonwealth filed a juvenile dependency, neglect, and abuse (DNA) petition in Clark Family Court stating that Appellant's family had filed a petition pursuant to Kentucky Revised Statutes (KRS) Chapter 202A seeking Appellant's involuntary psychiatric hospitalization. Specifically, the DNA petition alleged that there were concerns about Appellant's mental health and odd behavior affecting his ability to care for Child. Child's mother was already subject to a no-contact order with Child.

An adjudication hearing was held on December 8, 2025, where several witnesses testified. Social worker Maddy Muse testified that she was concerned about Appellant's mental health. She stated that she met with Appellant and Child, believed Appellant to be agitated, and learned that he had undergone a psychiatric evaluation the prior month at a facility called The Ridge. Based on her concerns regarding Appellant's mental health, Ms. Muse offered a case plan for

Appellant to follow, which would have included Child being placed with a family member while Appellant underwent a mental health evaluation.

Appellant refused to sign the plan. While acknowledging that she was not a mental health expert, Ms. Muse based her concerns on Appellant's behavior and statements to her, including his belief that his mother and girlfriend's behavior had changed; his belief that there were some shady things occurring in Clark County; and, his belief that he had a friend in the FBI. CHFS filed a written report stating that,

> CHFS has been involved with [Appellant] and [Child]. CHFS has had concerns regarding [Appellant's] mental health. CHFS has observed [Appellant's] mental health to escalate. [Appellant] appears to be experiencing a mental health crisis as evidence[d] by paranoia, rapid speech and anger outbursts. [Appellant] has made comments about everyone around him "acting weird", concerns that none of his children are biologically his, his home and phone being "bugged", his mom not being his actual mom, the FBI is following him, etc. [Appellant] and [Child] resided in an RV in paternal grandmother's back yard. [Appellant] has since left the home with [Child] due to his paranoia. [Appellant] has been staying with different friends. [Appellant's] family has filed a 202A and Judge has approved this. [Child's] mother . . . currently has bond conditions including no contact with [Child]. [Child] has not been in school since 09/24/2025. [Appellant] is a threat to his child due to his current mental health condition. [Appellant] was picked up on a 202A on 09/30/2025, leaving no one to care for [Child].

Appellant's mother next testified. Both parties characterize her as a reluctant witness. She testified that she filed a KRS Chapter 202A petition seeking the involuntary hospitalization of her son for mental health treatment.

Appellant's sister next testified. She stated that she was concerned about Appellant believing in conspiracies, and had accompanied Appellant's mother for the filing of the KRS Chapter 202A petition.

Lastly, Appellant's friend or former friend Sherae Franks testified. Ms. Franks authenticated videos taken on July 27, 2025, which were introduced into evidence over Appellant's objection. The videos showed Appellant possibly under the influence of illegal drugs or having a mental health episode.

At the conclusion of the adjudication hearing, the family court rendered AOC-DNA-4 form titled "ORDER ADJUDICATION HEARING." The court determined that Child was found to be neglected or abused by a preponderance of the evidence. Specifically, and pursuant to KRS 600.020(1)(a), the court determined that Appellant inflicted or allowed to be inflicted upon the child physical or emotional injury by other than accidental means; created or allowed to be created a risk of physical or emotional injury by other than accidental means; engaged in a pattern of conduct that makes him incapable of caring for the immediate and ongoing needs of the child including but not limited to parental incapacity due to a substance use disorder; and, continuously or

repeatedly failed or refused to provide essential parental care and protection for the child considering the age of the child. The court found that, while the facts supported removal or continued removal of the child, they did not require a change in custody. Finally, pending disposition, it ruled that Child should be placed in the care of the CHFS.

On January 29, 2026, the court conducted a disposition hearing. The court determined that reasonable efforts were made to prevent Child's removal from the home; that it had received and reviewed the CHFS's disposition report; and, that Child should remain committed to the CHFS. This appeal followed.

STANDARD OF REVIEW

In a dependency proceeding, "[t]he adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence." KRS 620.100(3). The preponderance of the evidence standard is satisfied if it can be proven that the child was "more likely than not" abused or neglected. *See Ashley v. Ashley*, 520 S.W.3d 400, 404 (Ky. App. 2017). "In a DNA action, the trial court has a great deal of discretion in determining whether the child is dependent, neglected, or abused." *B.B. v. Cabinet for Health and Family Services*, 635 S.W.3d 802, 807 (Ky. 2021), *reh'g denied* (Dec. 16, 2021) (citation omitted).

> Since the family court is in the best position to evaluate the testimony and to weigh the evidence, an appellate court should not substitute its own opinion for that of the family court. If the findings of fact are supported by substantial evidence and if the correct law is applied, a family court's ultimate decision . . . will not be disturbed, absent an abuse of discretion. Abuse of discretion implies that the family court's decision is unreasonable or unfair. Thus, in reviewing the decision of the family court, the test is not whether the appellate court would have decided it differently, but whether the findings of the family court are clearly erroneous, whether it applied the correct law, or whether it abused its discretion.

B.C. v. B.T., 182 S.W.3d 213, 219-20 (Ky. App. 2005) (footnotes and citations omitted).

ARGUMENTS AND ANALYSIS

Appellant argues that the Commonwealth failed to produce evidence sufficient to support a finding of abuse or neglect. He directs our attention to case law holding that an adjudication of neglect carries long-reaching consequences and must be done with the utmost caution. Appellant notes that the Commonwealth presented no expert testimony as to Appellant's mental health, and that the witnesses who testified at the adjudication hearing were not mental health experts. He argues that even if his behavior was arguably odd at times, that behavior cannot reasonably be construed as actual acts of neglect or abuse. The focus of his argument is his contention that the Commonwealth failed to meet its burden by a

preponderance of the evidence that Appellant engaged in abuse or neglect for purposes of KRS Chapter 600.

As part of this argument, Appellant asserts that the family court erred in allowing three videos to be introduced into evidence which showed Appellant talking with one or more other individuals. Appellant notes that these videos were recorded in July 2025, and prior to the events at issue; therefore, he asserts, they have no relevance to the instant proceedings. Further, Appellant points out that Child was not present when they were recorded. He argues that the videos were inflammatory and irrelevant, and that their improper introduction forms a basis for reversing the orders on appeal.

The procedure for adjudication and disposition hearing was discussed in *B.C.*, *supra*. A panel of this Court stated that,

> The formalities of filing a dependency, neglect, or abuse action are outlined in KRS 620.070. All juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition. In a dependency, neglect, or abuse case, the adjudication shall determine the truth or falsity of the allegations in the petition and shall be made on the basis of an admission or confession of the child to the court or by the taking of evidence. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The adjudication, which determines whether a child has in fact been neglected or abused is considered a trial and the parties have a right to appeal.

Once the family court has determined by a preponderance of the evidence that a minor child is depend[e]nt due to neglect or abuse, the family court will hold a separate hearing to determine the temporary removal of the child pursuant to KRS 620.080. The temporary removal hearing statute's substantive standard strikes the balance between parental rights and child protection by erring on the side of child protection. . . . The focus of a temporary removal hearing is the possibility of harm to the child rather than a determination of the truth or falsity of the dependency, neglect, or abuse petition's allegations. . . . The burden of proof is the same as at the adjudication hearing, *i.e.*, preponderance of the evidence; however, at a temporary removal hearing, hearsay testimony is allowed for good cause. Should the family court decide that the minor child should be removed from the home, it shall issue a temporary custody order stating the specific reasons for removal and show[ing] that alternative less restrictive placements and services have been considered.

KRS 620.140 provides that continuation in the home must be contrary to the welfare of the child[.] This statute seems to indicate that the family court should make reasonable efforts to reunify a child with its family as defined in KRS 620.020(10). However, pursuant to KRS 610.127(7), [r]easonable efforts as defined in KRS 620.020 shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has: . . . Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

In determining the temporary custody of a child found to be depend[e]nt, neglected, or abused, the family court shall make its determination based on the best interests of the child. In determining custody in such a situation, the family court, or a district court shall utilize

> the provisions of KRS Chapter 403 relating to child custody and visitation. Once a family court has made a disposition as to the temporary custody placement in a dependency, neglect, or abuse case, [t]he family, custodian, guardian, legal representative of such child may move the family court to continue the custody order prior to expiration.

B.C., 182 S.W.3d at 217-20 (internal quotation marks, footnotes, and citations omitted).

The primary question for our consideration is whether the Clark Family Court properly concluded that the Commonwealth produced evidence sufficient to support a finding of abuse or neglect per KRS Chapter 600. In making its finding of abuse or neglect, the family court found that Appellant 1) inflicted or allowed to be inflicted upon Child physical or emotional injury by other than accidental means (KRS 600.020(1)(a)1.); 2) created or allowed to be created a risk of physical or emotional injury by other than accidental means (KRS 600.020(1)(a)2.); 3) engaged in a pattern of conduct that makes him incapable of caring for the immediate and ongoing needs of Child including but not limited to parental incapacity due to a substance abuse disorder (KRS 600.020(1)(a)3.); or 4) continuously or repeatedly failed or refused to provide essential parental care and protection for Child considering the age of Child (KRS 600.020(1)(a)4.). "In order to find that a child has been neglected or abused, the family court need only conclude that the parent satisfied one of the grounds enumerated in KRS

600.020(1)(a)." *Cabinet for Health and Family Services v. K.O.*, 721 S.W.3d 124, 130 (Ky. 2025), *reh'g denied* (Jun. 20, 2025).

Here, the record supports the Clark Family Court's determination that at least one of the elements set out in KRS 600.020(1) was met by a preponderance of the evidence. As noted by the Commonwealth, Appellant was subject to an involuntary hospitalization for a mental health evaluation and treatment under KRS Chapter 202A. According to an emergency custody order entered on September 30, 2025, Appellant was admitted against his will at Eastern State Hospital on that date for a 72-hour psychiatric evaluation under the KRS Chapter 202A mental health warrant. This hospitalization was brought about by Appellant's family members, who were best situated to understand his mental health status, and it left Child without a caregiver as Child's mother was already subject to a no-contact order. Additionally, though the Commonwealth offered a case plan to ensure Child's welfare while Appellant addressed his apparent mental health issues, Appellant would not sign it.

The Commonwealth is only required to offer proof of abuse or neglect by the relatively low preponderance of the evidence standard that one of the elements set out in KRS 600.020(1) were met. KRS 620.100(3). "The preponderance of the evidence standard is satisfied if it can be proven that the child was 'more likely than not' abused or neglected." *S.S. v. Cabinet for Health and*

Family Services, 682 S.W.3d 39, 43 (Ky. App. 2023). In the matter before us, the evidence is sufficient to demonstrate that it was more likely than not that Child was abused or neglected under the standard set out in KRS 600.020(1).

Appellant also argues that the Commonwealth failed to produce any medical records or expert testimony regarding Appellant's mental health. It points out that the social worker who testified for the Commonwealth acknowledged that she was not a mental health expert, nor was she qualified to offer a mental health diagnosis. KRS Chapter 600, however, does not require the introduction of medical records or expert testimony. The Commonwealth offered the lay testimony of social worker Maddy Muse, and that of Appellant's mother and sister. This testimony was sufficient to meet the Commonwealth's burden of proof.

Lastly, Appellant briefly argues that the family court erred in allowing three videos recorded in July 2025 to be introduced into evidence at the adjudication hearing. Appellant states that Child was not with Appellant when they were recorded, and that the videos are otherwise irrelevant and prejudicial.

The videos were played off camera at the December 8, 2025, adjudication hearing, and are found in the record. They show Appellant speaking with one or two other persons inside a residence. One person in the background says that Appellant is "tweaking," *i.e.*, under the influence of methamphetamine. The videos show Appellant having unusual, spastic body movements and

mannerisms. Appellant does not raise his voice, engage in violence, nor make threats of violence in the videos.

We have no basis for concluding that the videos either help the Commonwealth's case or prejudice Appellant in the context of an adjudication hearing. The family court considered the videos in light of all of the evidence presented. *Arguendo*, even if the videos are irrelevant and prejudicial as Appellant argues, we would find any error to be harmless in the context of all of the evidence presented including the evidence of Appellant's involuntary hospitalization, CHFS's written findings, and the testimony of Ms. Muse and the other witnesses. *See* Kentucky Rules of Civil Procedure 61.01, which states that no error in the admission of evidence shall form the basis for modifying a ruling or judgment unless refusal to take such action appears to the court to be inconsistent with substantial justice. Here, the admission of the three videos is not inconsistent with substantial justice in the context of all of the evidence presented.

CONCLUSION

For these reasons, we affirm the December 8, 2025, adjudication order and January 29, 2026, disposition order of the Clark Family Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

John M. Hendricks
Winchester, Kentucky

BRIEF FOR APPELLEE:

William Elkins
Clark County Attorney
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