RENDERED: NOVEMBER 13, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0663-ME

T.S.C.T. APPELLANT

v.

APPEAL FROM WARREN CIRCUIT COURT
FAMILY COURT DIVISION
HONORABLE REBECCA ADAMS SIMPSON, JUDGE
ACTION NO. 24-AD-00113

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

OPINION
AFFIRMING

** ** ** ** **

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

EASTON, JUDGE: Appellant, T.S.C.T. (Mother), challenges the order of the Warren Family Court which terminated her parental rights to her minor child, J.A.T. (Child). The parental rights of Child's father (Father) were also terminated.[1]

[1] Father has not joined in this appeal, nor has he filed his own appeal of the termination of his parental rights.

Mother's counsel has filed an *Anders*[2] brief in accordance with *A.C. v. Cabinet for Health and Family Services*, 362 S.W.3d 361 (Ky. App. 2012), along with a motion to withdraw as counsel. Mother has not filed a supplemental brief. After a thorough review of the record, we affirm the Order of the Warren Family Court. We also grant Mother's counsel's motion to withdraw by separate order.

FACTUAL AND PROCEDURAL BACKGROUND

The Cabinet for Health and Family Services (Cabinet) was called in July 2023 when Child, then age three, was found walking alone by a street wearing only a diaper at around 1:00 a.m. The Bowling Green Police Department received this report, and when officers were unable to locate Child's parents, they called the Cabinet. Child was unable to tell the officers his name, his parents' names, or where he lived. He was placed in the emergency custody of the Cabinet that same day, and Child was placed in an approved foster home. Child has remained in that same foster home throughout the pendency of these proceedings.

Child's parents were eventually located, and a Dependency, Neglect, and Abuse (DNA) case was filed with the family court. The parents voluntarily signed a case plan with the Cabinet in early August 2023, agreeing to perform certain tasks to achieve reunification with Child. Child was adjudicated as abused or neglected in October 2023, and a Disposition Order was entered in November

[2] Named after *Anders v. California*, 386 U.S. 738 (1967).

2023. Over the next year, the parents made essentially no progress on their case plans, and the Cabinet filed a petition for the involuntary termination of their parental rights in October 2024.

In June 2024, Father moved out of Kentucky, first to Ohio, then to Illinois. In December 2024, Mother also moved from Kentucky to Illinois. Prior to moving, both Mother and Father were exercising weekly supervised visitations with Child. Post-move, Mother and Father only saw Child in person when they had court dates in Kentucky, but they had weekly virtual visits with Child.

The original date for the final hearing on the Cabinet's Termination of Parental Rights (TPR) petition was in May 2025. Both parents had been served by Warning Order Attorney, as the Cabinet did not have their current addresses. At the May hearing date, Mother was present, and she informed the family court she was living in Chicago. Mother asked for counsel to be appointed to her, which was granted. Father was not present on this court date.

The hearing was rescheduled for January 2026. Both Mother and Father appeared at this hearing. Mother again requested a continuance, because she had completed her mental health assessment on her case plan, but the report had not yet been filed. Father also asked for a continuance to obtain counsel for the termination hearing. Both the Cabinet and the Guardian *ad Litem* (GAL) objected to the continuance.

The family court appointed counsel for Father, and it granted a continuance so that Father would have an opportunity to assist his counsel in preparation for the TPR hearing. The family court rescheduled the hearing for April 2026, and it entered an order stating that any objection to the trial order "shall be HEARD by March 30, 2026 or the objection shall be deemed waived." This order also provided that the hearing date "can ONLY be adjourned by MOTION if good cause is shown."[3]

The TPR hearing took place on April 29, 2026. Neither Mother nor Father appeared, but their respective appointed attorneys were present. Mother's counsel again requested a continuance. This time Mother had apparently indicated to her counsel that she was busy dealing with her own mother's estate, the existence of which indicates the death had not been just prior to the hearing. The family court denied the continuance. Mother's counsel then attempted to reach Mother by phone, as the family court stated it would allow her to participate remotely. Mother was unable to be reached, and the hearing continued without her participation. Father attended the hearing by phone, and he testified on his own behalf.

At the end of the hearing, the family court stated it would grant the Cabinet's petition to terminate both Mother and Father's parental rights. The

[3] Amended Trial Order, Trial Record (TR) at page 111.

family court found that the Cabinet had proven that termination should be granted by clear and convincing evidence, and it outlined its findings. The family court then issued its Findings of Fact and Conclusions of Law and Order Terminating Parental Rights and Order of Judgment on May 11, 2026. Mother timely filed her appeal. Additional facts and testimony will be set forth below as they become relevant to our analysis.

STANDARD OF REVIEW

This Court's standard of review of a termination of parental rights case is the clearly erroneous standard in CR[4] 52.01. The factual findings must be supported by clear and convincing evidence. *M.E.C. v. Commonwealth, Cabinet for Health and Family Services*, 254 S.W.3d 846, 850 (Ky. App. 2008). The findings of the trial court should not be disturbed unless there exists no substantial evidence in the record to support its findings. *V.S. v. Commonwealth, Cabinet for Human Services*, 706 S.W.2d 420, 424 (Ky. App. 1986). "The test for abuse of discretion is whether the trial judge's decision was arbitrary, unreasonable, unfair or unsupported by sound legal principles." *Woodard v. Commonwealth*, 147 S.W.3d 63, 67 (Ky. 2004). Pursuant to the guidance provided in *A.C.*, 362 S.W.3d at 371, it is this Court's responsibility to "fully examine the record and decide whether the appeal is wholly frivolous pursuant to *Anders*[.]"

[4] Kentucky Rules of Civil Procedure.

ANALYSIS

KRS[5] 625.090 is the controlling statute regarding the involuntary termination of parental rights. This statute allows parental rights to be involuntarily terminated only upon findings, based on clear and convincing evidence, that (1) the child has been found to be an abused or neglected child as defined in KRS 600.020(1) by a court of competent jurisdiction; (2) that the Cabinet has filed a petition seeking the termination of parental rights pursuant to KRS 620.180 or KRS 625.050; (3) that termination is in the child's best interests; and (4) at least one of the grounds set out in KRS 625.090(2)(a)-(k) is present.

The first requirement is that Child must have been found to have been abused or neglected. KRS 600.020(1) defines an "abused or neglected child" as "a child whose health or welfare is harmed or threatened with harm" with a list of examples provided. The family court had previously found Child to be neglected at the adjudication hearing held in October 2023. The Child had been found outside near a street, alone, wearing only a diaper at close to 1:00 a.m. Child's parents were unable to be located. Child was severely developmentally delayed; he was unable to eat solid food and barely spoke. When Child's parents were located, the Cabinet discovered that Child's bedroom had only subfloor and contained no furniture. Child was sleeping on a foam pad on the floor, and he had

[5] Kentucky Revised Statutes.

no pillows or blankets. The only toy in Child's room was a small basketball goal and a ball. The Cabinet worker also testified that Mother seemed very dismissive about the circumstances that led to Child's removal from the home. The first prong is satisfied.

Next, the court must find that at least one of the grounds outlined in KRS 625.090(2) is present. The family court in this action found these grounds applied:

> (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
>
> . . .
>
> (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
>
> . . .
>
> (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
>
> . . .

> (j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) cumulative months out of forty-eight (48) months preceding the filing of the petition to terminate parental rights.

The court is only required to find the existence of one of the grounds under KRS 625.090(2) to grant termination. *Commonwealth, Cabinet for Health and Family Services v. T.N.H.*, 302 S.W.3d 658, 663 (Ky. 2010). In this case, factor (j) is undisputed; Child was put into the Cabinet's custody in July 2023, and the TPR hearing occurred in April 2026, approximately 33 months later.

There is also adequate evidence in the record to support the family court's other findings. For example, as for the family court's finding of abandonment, the Cabinet workers testified that both Mother and Father moved from Kentucky to Illinois in 2024. While there was testimony that Father moved to obtain better employment opportunities, there was no testimony regarding Mother's reasoning for moving out of Kentucky. Even if we assume Mother's reason for leaving Kentucky was the same as Father's, there was testimony that Mother was still unemployed at the time of the final hearing. According to the Cabinet worker assigned to the family's case, Mother's employment history was sporadic and irregular. While Mother and Father participated in virtual visits with Child weekly after moving, they only saw Child on a few occasions in-person, and those visits occurred when they had to be in court in Kentucky. Mother also failed to pay child support or provide in any way for Child after she moved.

Abandonment has been shown by clear and convincing evidence. The second prong supporting termination has been met.

The final consideration is the "best interest" standard. In determining the best interest of Child and the existence of a ground for termination, the family court must consider the factors in KRS 625.090(3), which are:

> (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;
>
> (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;
>
> (c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents unless one or more of the circumstances enumerated in KRS 610.127 for not requiring reasonable efforts have been substantiated in a written finding by the District Court;
>
> (d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;
>
> (e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

The family court determined it was in Child's best interest to terminate Mother's parental rights. Child had been in the same foster home since his removal, and he had improved dramatically since his removal from Mother and Father's custody. Child had received multiple therapies to improve his developmental delays, and his foster mother testified that, while he is still somewhat delayed, he has improved substantially. Foster mother stated when Child first came into care, he barely spoke, but he now speaks normally. She also told the family court that when Child first came into her care, he was emotionally stunted; she said Child did not cry or react to anything for the first several weeks Child was in her home. Child also only ate baby food or other blended foods and could not use utensils when he came into her care. Foster mother testified that Child is doing well in preschool; he has made friends, and he has no behavioral issues.

The family court found the Cabinet had "rendered, or made reasonable efforts to render, all appropriate reunification services" to Mother and Father, but that they "have failed to adequately engage in and benefit from the services offered."[6] Mother did not complete her mental health assessment until

[6] Findings of Fact and Conclusions of Law, TR at page 174.

February 2026, over a year after the TPR petition had been filed, and more than six months after the original hearing date was scheduled to be held by the family court. And even after completing the assessment, Mother declined to pursue the individual counseling sessions that were recommended to her. Mother also refused to participate in a different assessment that was on her case plan. Mother was unemployed at the time of the hearing, and the Cabinet could not determine if her housing was appropriate. It had been approximately four months since Mother had seen Child.

Finally, Mother failed to even attend the TPR hearing. When her counsel was given an opportunity to attempt to reach Mother to allow her to participate virtually or by telephone, she was unable to be reached. When given the opportunity to file her own pro se brief to supplement her counsel's *Anders* brief, she did not take advantage of that opportunity. The record before this Court fully supports the family court's Findings of Fact and Conclusions of Law and Order terminating Mother's parental rights.

CONCLUSION

The findings of the family court pursuant to KRS 625.090 are not clearly erroneous, and it did not abuse its discretion. For the foregoing reasons, the order of the Warren Family Court is AFFIRMED.

ALL CONCUR.

BRIEF FOR APPELLANT:

Mark T. Smith
Bowling Green, Kentucky

BRIEF FOR APPELLEE CABINET FOR HEALTH AND FAMILY SERVICES:

Kevin Martz
Covington, Kentucky