

RENDERED: JANUARY 5, 2018; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2017-CA-000248-ME

A.S.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KATHY STEIN, JUDGE
ACTION NO. 16-J-01196-001

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

APPELLEES

AND

NO. 2017-CA-000249-ME

A.S.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KATHY STEIN, JUDGE
ACTION NO. 16-J-01197-001

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

APPELLEES

AND

NO. 2017-CA-000250-ME

A.S.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KATHY STEIN, JUDGE
ACTION NO. 16-J-01198-001

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

APPELLEES

AND

NO. 2017-CA-000251-ME

A.S.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KATHY STEIN, JUDGE
ACTION NO. 16-J-01199-001

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

APPELLEES

AND

NO. 2017-CA-000252-ME

A.S.

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KATHY STEIN, JUDGE
ACTION NO. 16-J-01200-001

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

APPELLEES

OPINION
VACATING AND REMANDING

** ** * * * * *

BEFORE: COMBS, J. LAMBERT AND NICKELL, JUDGES.

COMBS, JUDGE: Appellant, A.S., appeals from Orders of the Fayette Family Court adjudicating that each of her five minor children was an abused or neglected child in these consolidated appeals.¹ After our review, we vacate and remand.

On August 25, 2016, the Cabinet filed dependency, neglect and abuse Petitions in Fayette Family Court in the interest of each child. An adjudication hearing was conducted on December 12, 2016. At the close of the hearing, the court announced that it found that the Cabinet had sustained its burden of proof that the children were at risk of neglect and set the matter for disposition.

Handwritten notes on docket sheet Orders from the December 12, 2016,

¹ By Order entered on July 19, 2017, these appeals were consolidated for all purposes including briefing. For the sake of judicial economy, this Court ordered that the consolidated briefs filed in 2017-CA-000248 shall be the briefs reviewed by this merits panel and directed the Clerk to file those briefs in Case Nos. 2017-CA-000249, 2017-CA-000250, 2017-CA-000251 and 2017-CA-000252.

adjudication hearing identified the Petitioner's Exhibits and reflected a finding of "RON disp 2/6 [.]"

The Family Court entered the subject Adjudication Orders in each of the consolidated cases on a Form AOC-DNA-4,² concluding that each child was neglected or abused. However, the check-boxes indicating the specific grounds for the court's conclusions were left blank.³ The preceding section of the Form entitled "Findings of Fact" was left entirely blank in each of the cases.

CR⁴ 52.01 provides in relevant part that "[i]n all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specifically and state separately its conclusions of law thereon" In *Anderson v. Johnson*, 350 S.W.3d 453, 458 (Ky. 2011), our Supreme Court expanded upon the implications of the civil rule:

CR 52.01 requires that the judge engage in at least a good faith effort at fact-finding and that the found facts be included in a written order. Failure to do so allows an appellate court to remand the case for findings, even where the complaining party failed to bring the lack of specific findings to the trial court's attention.

² Kentucky Family Rules of Practice and Procedure (FCRPP) 22(1) provides that the order entered at the Adjudication Hearing "shall contain the contents of the official AOC form, AOC-DNA-4, Order-Adjudication Hearing, which is available for use in compliance with this rule."

³ Those check-boxes essentially recite the factors contained in Kentucky Revised Statute (KRS) 600.020(1) (a)1-9 and (b), the statutory definition of abused or neglected child.

⁴ Kentucky Rules of Civil Procedure.

In *Keifer v. Keifer*, 354 S.W.3d 123, 124 (Ky. 2011), the Court further elaborated as follows:

[Even if] the trial court's rationale is readily determinable from the record, ... compliance with CR 52.01 ... requires *written* findings. We do not expect the appellate courts of this state to search a video record or trial transcript to determine what findings the trial court might have made with respect to the essential facts. ... A bare-bone, conclusory order ... setting forth nothing but the final outcome, is inadequate and will enjoy no presumption of validity on appeal.

(Emphasis original). Although *Keifer* dealt with the sufficiency of an order modifying parental visitation, a panel of this Court held that its reasoning applied to a dependency, neglect, and abuse action in *A.S.M. v. Cabinet for Health and Family Services*, 2013-CA-002159-ME, 2014 WL 4536341, at *1 (Ky. App. Sept. 12, 2014) (“A finding of neglect is a serious matter. ... It is possible that the family court's determination is supported by substantial evidence, but we are precluded from affirming the decision due to the lack of written findings.”).

The lack of written findings in the cases before us precludes our review. We are, therefore, compelled to vacate the Adjudication Orders and remand to the family court for entry of new orders which properly reflect that court's findings of fact and conclusions of law “based upon the evidence that was presented at the hearing previously held.” *Keifer* at 127.

ALL CONCUR.

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