

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KASSAM HASSAN BEYDOUN,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
February 7, 2006

Petitioner-Appellee,

v

REBECCA MARIE DUNN,

Respondent-Appellant,

and

HASSAN KASSAM BEYDOUN,

Respondent.

No. 264181
Wayne Circuit Court
Family Division
LC No. 99-383619-NA

Before: Meter, P.J., Whitbeck, C.J., and Schuette, J.

PER CURIAM.

Respondent Rebecca Dunn appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(l). We affirm.

I. FACTS

Respondent and the father have a history of domestic violence and drug abuse that led to the termination of their parental rights to four other children. The child at issue in this appeal was born on April 2, 2005. Ursula Tubbs, a child protective services worker, testified that she received a referral that the child tested positive for cocaine at birth. According to Tubbs, respondent admitted that she used cocaine during her pregnancy as recently as two weeks before the child's birth and that she did not have prenatal care. She admitted that she had domestic violence issues with the father. As of April 6, 2005, respondent was being evicted from her current housing. The child was placed directly from the hospital into foster care.

Tubbs testified that at a family case review meeting on April 6, 2005, the maternal grandfather, Robert Dunn, and step-grandmother, Eloise Dunn, presented letters of guardianship,

dated April 4, 2005, for “Nickolas Vincent Dunn.” The grandparents explained that they obtained guardianship over “Nickolas” because they thought that would be the child’s name, but then the child was named Kassam. Tubbs testified that the information they provided was not the same as the information she was given by the social worker and Children’s Hospital concerning what took place. According to Tubbs, the father indicated at the meeting that respondent would take care of the child, and he would help her. Tubbs did not see any documents showing that the father consented to the guardianship. Tubbs testified that she conducted a home study of the grandparents’ home and found it to be suitable.¹

II. JURISDICTION

Respondent argues that the trial court erred in exercising jurisdiction over the child. She maintains that she established a proper guardianship² for the child with the child’s grandfather and, therefore, the child was not “without proper care or custody” pursuant to MCL 712A.2(b)(1)

A. Standard of Review

To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction has been established by a preponderance of the evidence. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). This Court reviews for clear error the trial court’s factual findings and its decision to exercise jurisdiction in light of the findings. *Id.*

B. Analysis

In this case, the trial court referenced the prior terminations of respondent’s parental rights to four other children, respondent’s use of cocaine during her pregnancy with this child, and the fact that respondent was in danger of being evicted from her place of residence at or near the time of the child’s birth. The court found that respondent’s conduct showed neglect and anticipatory neglect, and determined that it had jurisdiction under MCL 712A.2(b)(1) and (2).

¹ We note that the lower court file includes the motion and, as an FIA exhibit for the hearing on August 22, 2000, an addendum to an assessment of Robert and Eloise Dunn by Lutheran Child and Family Service. The addendum states that Robert Dunn concealed his criminal record (convictions for reckless driving in 1974 and burglary in 1975) and that Robert and Eloise Dunn concealed that Robert “does have a drinking problem.” In addition, the addendum indicated that Robert Dunn appeared to harbor racial prejudice toward people of Arabic descent and that he made threats of violence toward the father. According to the addendum, one of Kassam’s four siblings was originally placed in foster care because Robert and Eloise Dunn requested that the child be removed from their home. Although the worker’s original assessment was that the Dunns’ home was a suitable placement for the child, the authoring social worker revised her recommendation and concluded that placement with them would not be in the child’s best interests. The fitness of the grandparents as guardians was not contested here, and we offer no opinion on this issue.

² Although, the letters of guardianship refer to the child by a different name, the validity of the guardianship is not at issue on appeal.

In challenging the trial court's exercise of jurisdiction, respondent does not address both bases for the trial court's determination of jurisdiction. She addresses only MCL 712A.2(b)(1). Her failure to address the entire basis for the trial court's decision should alone preclude appellate relief. *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (appellate relief is precluded where the appellant fails to address the basis of the trial court's decision).

However, anticipatory neglect is an appropriate basis for the court to assume jurisdiction. *In re Powers*, 208 Mich App 582, 589; 528 NW2d 799 (1995); *In re Gazella*, 264 Mich App 668, 680; 692 NW2d 708 (2005). Here, respondent's substance abuse resulted in the termination of her parental rights to four other children. In addition, her conduct while pregnant with this child, specifically her failure to obtain prenatal care and her use of cocaine, supports the court's exercise of jurisdiction. *In re Baby X*, 97 Mich App 111, 116; 293 NW2d 736 (1980). To the extent that respondent argues that the appointment of a guardian precluded the court from assuming jurisdiction, we disagree. See *In re BZ*, *supra* at 293-296. A parent's involvement in appointing a guardian for a child may be a consideration in assessing jurisdiction, but does not preclude consideration of other circumstances. We find no clear error in the trial court's exercise of jurisdiction.

III. BEST INTERESTS OF THE CHILD

Respondent also argues that termination of her parental rights was clearly not in the child's best interests.

A. Standard of Review

Once a court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). This Court reviews the trial court's decision for clear error. *Id.* at 356-357; *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

B. Analysis

Here, the trial court reasoned that due to the parents' longstanding substance abuse problem, "to have this mother and father totally out of this child's life" would be in the child's best interests. The only possible benefit of maintaining respondent's parental rights was the potential of a relationship between the child and the grandfather and step-grandmother; respondent's and the father's longstanding history of substance abuse provided no reason to believe that they would ever be suitable parents. In light of the parents' history, the trial court did not clearly err in its best interest determination.

Affirmed.

/s/ Patrick M. Meter
/s/ William C. Whitbeck
/s/ Bill Schuette