

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ADRIANNE CLAY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ADRIANNE MARIE CLAY,

Respondent-Appellant.

UNPUBLISHED

May 28, 2009

No. 289298

Wayne Circuit Court

Family Division

LC No. 07-472995-NA

Before: Jansen, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Respondent appeals by right from the trial court's order exercising jurisdiction over her infant child pursuant to MCL 712A.2(b). We affirm.

In order for a trial court to find that a child comes within its jurisdiction, at least one statutory ground for jurisdiction contained in MCL 712A.2(b) must be proven at trial or by a plea. *In re SLH*, 277 Mich App 662, 669; 747 NW2d 547 (2008).

The trial court did not clearly err in finding by a preponderance of the evidence that a statutory basis for jurisdiction existed. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). Respondent risked harming her child when she used marijuana while she was pregnant, and her mental health problems rendered her unable to provide proper care and custody for this child and for two others.

The evidence established that the infant had been exposed to marijuana while respondent was pregnant. The certified medical records from Hutzel Hospital included test results that the infant's meconium was positive for marijuana at birth. Respondent argues that the trial court gave a disproportionate weight to the test results and did not consider respondent's denial of drug use. But the trial court specifically found respondent was not a credible witness. When asked about the altercation at the hospital when she was told to leave, respondent stated that she became angry because the nurses were teaching her and the other mothers to abuse and neglect their children. Respondent stated that the nurses told her not to feed her child and to just let her cry. The trial court did not believe this testimony. In addition, the trial court noted that, although respondent testified that she had signed five medical releases, there was no evidence of a release being signed, and her records had not been released to petitioner. Because due regard is

given to the trial court's special opportunity to judge the credibility of the witnesses, we will not disturb the trial court's finding regarding respondent's credibility. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008).

Respondent had a mental illness that required medication and regular doctor's appointments. Respondent had two other children who were temporary court wards because of the instability her mental illness caused. A child may come within the jurisdiction of the court solely on the basis of a parent's treatment of another child. Abuse or neglect of the second child is not a prerequisite for jurisdiction of that child and application of the doctrine of anticipatory neglect. *In re Gazella*, 264 Mich App 668, 680-681; 692 NW2d 708 (2005). Respondent was not fully compliant with her treatment plan regarding her other children, and she was not in a position where they were being returned to her care at the time of the adjudication hearing. The trial court did not clearly err in concluding that respondent's mental health issues continued to impair her ability to provide proper care and custody for this child. The Protective Services worker testified that at the team decision meeting respondent was rude, disruptive, continually talked over the other participants, and reported that she heard voices talking to the worker and her mother when they were conversing after the meeting. In addition, respondent testified that her mental health care provider and petitioner were conspiring to keep her medical records out of evidence to keep her children out of her care. Respondent indicated that petitioner was motivated to keep her children out of her care because of respondent's knowledge of illegal activity in her neighborhood.

Based on the infant's test results, respondent's behavior at the hospital, the worker's testimony, and respondent's own testimony, the trial court did not clearly err in determining that the statutory bases for jurisdiction existed or in exercising that jurisdiction.

We affirm.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Jane E. Markey