

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
June 19, 2012

In the Matter of T. M. CONNELL, Minor.

No. 306755  
Calhoun Circuit Court  
Family Division  
LC No. 2010-002814-NA

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Before: BORRELLO, P.J., and O'CONNELL and TALBOT, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). For the reasons set forth in this opinion, we affirm.

The initial petition giving rise to this appeal was signed on September 3, 2010, and filed on September 7, 2010. Concerning respondent, it alleged that (1) she had been diagnosed with bipolar disorder but was not on any medication to address it; (2) she had refused to address her mental health issues and had not followed through with the treatment that was initiated in June 2010; (3) her level of functioning had “deteriorated since that time”; (4) she had a substance abuse history and tested positive for marijuana on June 21, and July 13, 2010; (5) on June 19, 2010, she had overdosed on Xanax and was hospitalized; (6) she had a criminal history, including five months in jail in 2009 for an assault conviction; (7) she had a “multiple felony resisting/ assaulting/obstructing history”; (8) she had not provided stable housing for her child and had moved four times since June 2010; (9) on August 18, 2010, the police were dispatched to a possible domestic complaint involving respondent and her partner; (10) she admitted kicking in the door and stated, “That was the only way I could get in,” and that she had pushed in the window air conditioner to get in the house; (11) both respondent and her partner denied any physical confrontation, but both were arrested due to outstanding traffic warrants; (12) on September 2, 2010, respondent told the CPS worker that she would not work with Families First, and had stated, “You might as well take [the minor child], cause I’m not working with anyone”; (13) she told the worker that she did not have any issues to address and CPS should not be involved with her family; and (14) she was irrational and kept stating, “The police and CPS are in my ass,” and “everyone smokes marijuana, I’m sure you do.”

The trial court took jurisdiction over the matter and respondent was ordered to participate in counseling, drug screens and parenting classes. Additionally, she was allowed supervised visitations of the minor child. Respondent progressed to a point that on April 21, 2011, the

minor child was returned to respondent with in-home services. However, this unification did not last long. On May 19, 2011, an emergency removal hearing was held, which was rescheduled June 1, 2011. At the emergency hearing, petitioner stated that the parties had entered a stipulation for removal and placement in foster care, with supervised visitation. The trial court adopted the stipulation.

After the second removal of the minor child, respondent failed to comply with most of the trial court's orders and directions provided by CPS workers. CPS workers testified that in the short time that the minor child was returned to respondent's care, they personally observed a drastic decrease in the minor child's vocabulary. They also observed weight loss, decreased personality development, including a fear of the using the toilet. Additionally, respondent failed to continue her counseling, continued to use marijuana, and lied about taking her medications for her bi-polar disorder. Following the close of proofs, the trial court terminated respondent's parental rights. This appeal ensued.

On appeal, respondent first argues that the trial court clearly erred in finding clear and convincing evidence to support the statutory grounds for termination. However, our review of the record leads us to conclude that the trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination of respondent's parental rights. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

With the exception that respondent had found suitable housing, the conditions that existed at the adjudication continued to exist at the termination hearing and new conditions existed. When the child was first removed from respondent, she initially had complied with the requirements of the treatment plan, and the child was returned to her. However, within less than a month, the child had to be removed from respondent's care a second time. Respondent had left the child overnight with the child's father, despite the court order that he not be permitted to see the child without agency supervision, had been involved in another domestic violence situation, and was again using illegal substances. Following the second removal, respondent, in her own words, "kinda gave up." She stopped attending counseling, failed to comply with her bipolar medication, did not participate in drug screens and acknowledged using marijuana again, and did not address any of her mental health issues. In addition, there was evidence from the foster mother that the minor child had regressed considerably in the short time that she was with respondent, both in her mental health and her developmental progress. Respondent's noncompliance when the child was returned to her and from the time of the second removal clearly demonstrated that she would not rectify the conditions of adjudication within a reasonable time considering the child's age.

Further, a parent's failure to comply with the parent/agency agreement is evidence of a parent's failure to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003); quoting *In Re Trejo*, 462 Mich 341, 360; 612 NW2d 341 (2000). It was clear that respondent could not provide proper care or custody for her child, and her testimony at the termination hearing demonstrated that she did not take any responsibility for the removal and would not be able to provide proper care or custody within a reasonable time. The evidence also showed that the minor child was at risk of harm while in respondent's care. Respondent deliberately disobeyed the court's order and demonstrated poor judgment in permitting the child to stay overnight with her father. At the termination hearing, she testified that she "didn't think I

was going to get caught.” During visitation, respondent demonstrated that she did not benefit from the parenting classes. She talked to the minor child about the case and, when told that was inappropriate became verbally abusive and threatened the worker. As a result respondent’s behavior, she had to be forcibly removed from the building. Accordingly, the trial court did not clearly err in finding clear and convincing evidence that the minor child would be at risk of harm if returned to respondent.

Next, respondent argues on appeal that the trial court clearly erred in finding that termination of respondent’s parental rights was in the best interest of the child. We find that the trial court did not clearly err in finding that termination of respondent’s parental rights was in the minor child’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-367. The minor child had been in foster care for over a year and needed stability and permanency. Respondent had demonstrated that she would not comply with the requirements for reunification, and when the minor child was returned to respondent’s sole custody for less than a month, the minor child experienced significant problems. Accordingly, we find from the record that the evidence presented was clear and convincing that termination of respondent’s parental rights was in the child’s best interests.

Affirmed.

/s/ Stephen L. Borrello  
/s/ Peter D. O’Connell  
/s/ Michael J. Talbot