

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JERID STEPHEN TUPIS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

GEORGETTE DENNISON,

Respondent-Appellant,

and

RUDY TUPIS,

Respondent.

UNPUBLISHED

March 23, 2004

No. 251149

Wexford Circuit Court

Family Division

LC No. 02-016801-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The trial court's findings are clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Terry*, 240 Mich App 14, 21-22; 610 NW2d 563 (2000).

Respondent-appellant clearly failed to provide proper care and custody for the minor child as contemplated in MCL 712A.19b(3)(g) when she exposed him to domestic violence by her two former husbands, constantly changed residences, and lacked a stable environment in which to care for him. Moreover, the evidence indicated no reasonable likelihood that respondent-appellant will be able to provide proper care and custody for Jerid in the reasonable future. Respondent-appellant failed to obtain stable housing, moving ten times during the pendency of this matter. At the time of the termination trial she was renting a room in a house without a lease, paying on a weekly basis. Similarly respondent-appellant has obtained and lost at least six jobs during the pendency of this matter. Respondent-appellant obtained stable

income only through worker's compensation benefits, which she acknowledges could end at any time. The psychological testimony strongly indicated that respondent-appellant's pattern of instability may be expected to continue. Her psychological evaluation indicated that she has severe impairments in reality testing and relationships. Dr. Simmons felt that her prognosis for improvement was extremely poor. Respondent-appellant's therapist similarly opined that respondent-appellant's prognosis for change and for becoming a capable parent was poor. This conclusion is certainly reinforced by evidence that respondent-appellant discontinued counseling after four and one-half sessions.¹

We note that while respondent-appellant carried out some of the provisions of the parent-agency agreement, she did not accomplish the most fundamental one of obtaining and maintaining stable housing. A parent's failure to carry out the parent-agency agreement is evidence of the parent's failure to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Moreover, respondent-appellant's lack of investment in her treatment goals was evident not only in her marginal attendance of Youth Enhancement Support Services meetings but in her delay in obtaining an initial psychological evaluation, in initiating therapy, and in entering a dual diagnosis treatment program, and then in her discontinuation of therapy after four and one-half sessions. The testimony of various individuals who attempted to assist respondent-appellant indicated that she persistently viewed herself as a victim and blamed her problems on others. On this record, there is ample reason to conclude that respondent's inability to provide proper care and custody for Jerid will continue into the foreseeable future. Therefore, the trial court did not clearly err by finding that the grounds for termination set forth in MCL 712A.19b(3)(g) were established by clear and convincing evidence.

We also conclude that trial court did not clearly err by finding a reasonable likelihood that Jerid would be harmed if returned to respondent. MCL 712A.19b(3)(j). The evidence quite convincingly showed that Jerid was traumatized by the instability of his circumstances while in respondent-appellant's care. The social worker who conducted an assessment of the minor child concluded that he was emotionally traumatized by abuse and neglect. Respondent-appellant and the minor child had moved seven times in approximately fourteen months, and the child has witnessed domestic violence against respondent-appellant at the hands of two of her former husbands. He was withdrawn and fearful and would not speak back or smile when placed in care. He stated that he would be dead soon and hoarded boxes in anticipation of his next move. The evidence adduced in the trial court supplied ample reason to conclude that respondent-appellant will continue in her pattern of instability, which has proven so harmful to Jerid in the

¹ We do not believe that these conclusions are contradicted by the testimony of Dr. Monteith, who thought respondent-appellant was doing quite well considering the severity of her mental illness, but made no assessment of her parenting abilities. Dr. Monteith diagnosed respondent-appellant with posttraumatic stress disorder, nicotine dependence, excessive caffeine consumption, history of alcohol and substance abuse, and self-defeating personality traits, and noted that he would consider a full-blown personality disorder. He noted that her untruthfulness regarding abstinence from marijuana was a "red flag" as was the fact that she does not parent her five other children. He also noted that her inability to maintain stable and appropriate housing would be a major stressor for a child.

past. Therefore, the trial court did not clearly err by finding a reasonable likelihood that the minor child would be harmed if returned to respondent-appellant's care.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to Jerid's best interests. MCL 712A.19b(5). We are cognizant of the evidence that termination will be very difficult for Jerid because he is bonded to respondent-appellant as well as to his siblings Samuel and Ariel. However, there was overwhelming evidence that Jerid's bond with respondent-appellant was at his own expense, as demonstrated by his emotional, social, and academic conditions when he was taken from her care. By contrast, the testimony indicated that he is now confident, happy, and interested in doing things. His behavioral problems at school have lessened and he has gone from being expected to repeat kindergarten to being the top reader and one of the top math students in his first grade class. As for the issue of sibling bonds, Dr. Simmons opined that it would be preferable to risk completely terminating the bond between Jerid and his siblings than to leave him in limbo. We note finally that Jerid's foster mother indicated a desire to adopt him. The opinion of the trial court indicates that the court carefully considered the best interests of the minor child, which it considered a difficult issue, and we are not left with the impression that a mistake was made in this regard.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette