

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AYLPAAD, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHEILLA PETERS and MICHAEL PAAD,

Respondents-Appellants.

UNPUBLISHED
February 13, 2007

No. 272102
Alpena Circuit Court
Family Division
LC No. 04-004817-NA

Before: Whitbeck, C.J., and Bandstra and Schuette, JJ.

PER CURIAM.

Respondents Sheilla Peters and Michael Paad appeal as of right from the trial court's order terminating their parental rights to the minor child.¹ We affirm.

The trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination.² Paad pleaded guilty to, and was convicted of, attempted child abuse of Peters' son. Paad had a prior history of violence, was resistant to the services offered, and noncompliant with the parent/agency agreement. Peters vacillated in her belief that Paad injured her son and intended to remain in a relationship with him. She also had failed to substantially comply with her treatment plan. Both Peters and Paad failed to take responsibility for their actions and refused to recognize any potential for harm to this child.

The trial court did not clearly err or unfairly prejudice Peters or Paad by allowing the Department of Human Services to amend the petition to include an additional statutory ground for termination. A petition may be amended at any stage of the proceedings as the ends of

¹ MCL 712A.19b(3)(b)(i) (sibling suffered physical injury and reasonable likelihood of injury to this child), (c)(i) (conditions that led to adjudication continue to exist), and (j) (reasonable likelihood of harm if returned).

² MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

justice require.³ The original petition requesting termination of parental rights listed with specificity all of the allegations of abuse and neglect against Peters and Paad, and adequately informed them of the facts against which they would have to defend. The amendment was not made on the basis of additional allegations of abuse or neglect and, therefore, did not add any facts or circumstances new or different from the offense that led the trial court to take jurisdiction.⁴ Peters' and Paad's due process rights to notice were not compromised.

The trial court did not abuse its discretion in admitting evidence of Paad's conviction for child abuse and other evidence of his violent tendencies.⁵ The Michigan Rules of Evidence do not apply in termination trials where there are no circumstances new or different from the offense that led the trial court to take jurisdiction.⁶ This evidence was relevant, material, and probative to the issues in this case. The trial court clearly stated that it would not give that evidence undue weight or base its decision solely upon that evidence. And, in fact, we find that the trial court based its decision to terminate Paad's parental rights on his failure to address the issues that brought the child into the custody of the trial court and his failure to substantially comply with the parent/agency agreement during the course of this case, and not on his prior conduct.

Once the trial court finds that there are grounds for termination of parental rights, the trial court shall order termination of parental rights unless the trial court finds that termination of parental rights to the child is clearly not in the child's best interest.⁷ Peters and Paad argue that the trial court erred by not stating on the record or in writing any findings or conclusions regarding the child's best interests. We disagree. Although courts are statutorily required to expressly state findings of fact and conclusions of law regarding whether parental rights should be terminated,⁸ there is no similar requirement concerning the best interest determination.⁹ By entering its order terminating Peters' and Paad's parental rights, the trial court "necessarily found that statutory grounds for termination existed and could not have found that termination of parental rights was clearly not in the best interests of the child[]." ¹⁰

Affirmed.

/s/ William C. Whitbeck
/s/ Richard A. Bandstra
/s/ Bill Schuette

³ MCL 712A.11(6).

⁴ MCR 3.977(F).

⁵ *In re MU*, 264 Mich App 270, 276; 690 NW2d 495 (2004).

⁶ MCR 3.977(G)(2).

⁷ MCL 712A.19b(5).

⁸ MCL 712A.19b(1).

⁹ *In re Gazella*, *supra* at 677.

¹⁰ *Id.*