

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ELIZABETH MAE GRIMES,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA L. GRIMES,

Respondent-Appellant.

UNPUBLISHED

September 25, 2007

No. 275530

St. Clair Circuit Court

Family Division

LC No. 05-000377-NA

Before: Owens, P.J., and White and Murray, JJ.

PER CURIAM.

Respondent Lisa Grimes appeals as of right the final order of the St. Clair Circuit Court, Family Division, terminating her parental rights to her daughter. We affirm.

Respondent challenges the trial court's order terminating her parental rights to her daughter pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We review a trial court's findings regarding an order terminating parental rights for clear error. MCR 3.977(J). We also review for clear error "both the court's decision that a ground for termination has been proven by clear and convincing evidence and, where appropriate, the court's decision regarding the child's best interest." *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "A trial court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake had been made." *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

"[MCL 712A.19b(5)] mandates termination once a petitioner establishes at least one statutory ground for termination under subsection [MCL 712A.19b(3)], unless the court finds that termination is clearly not in the child's best interest." *Trejo, supra* at 364-365. Accordingly, we must uphold the trial court's order terminating respondent's parental rights if petitioner has established at least one statutory ground for termination by clear and convincing evidence, unless termination is clearly not in the child's best interest.

MCL 712A.19b(3) states:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The trial court did not err when it terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i). Respondent's daughter had been made a ward of the court in response to petitioner's concerns that respondent had substance abuse problems, did not have a place to live, and otherwise neglected and could not properly care for her daughter. Although at various times over the following year respondent found employment and maintained independent housing, at the time of the termination hearing she was unemployed, lacked a verifiable independent source of income, and was dependent on Michael Hernandez for housing, financial assistance, and emotional support. Although Hernandez claimed, purportedly out of the goodness of his heart, that he would continue to allow respondent to live with him rent-free and would support her daughter financially if she were returned to respondent's custody, no legal relationship existed requiring Hernandez to fulfill these promises. Further, respondent had become intoxicated in her daughter's presence during an unsupervised visit and, on other occasions, made statements to the Michigan Department of Human Services (DHS) worker assigned to her case, her therapist, and her daughter's foster mother indicating that she was depressed and did not believe that she could properly parent her daughter. At the time of the termination hearing respondent was in no better position to care for her daughter than she had been when her daughter was originally removed from her custody. Further, based on the evidence presented in the termination hearing, no reasonable likelihood existed that these conditions would be rectified in a reasonable time. Accordingly, the trial court did not clearly err when it concluded that the conditions leading to the initial adjudication of this case continued to exist and terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i).

The trial court also did not clearly err when it terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g). A parent's compliance with the literal requirements of a

treatment plan is insufficient to permit a child to return to her parent's custody if that parent has failed to benefit. *Gazella, supra* at 676 (“[I]t is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody.”). Although respondent complied with several of the literal requirements of her treatment plan, the evidence presented at the termination hearing indicated that she did not benefit from these requirements. Accordingly, the trial court did not clearly err when it concluded that respondent would be unable to provide proper care and custody for her daughter within a reasonable time and terminated her parental rights pursuant to MCL 712A.19b(3)(g).

Finally, the trial court did not clearly err when it terminated respondent's parental rights under MCL 712A.19b(3)(j). Although evidence presented at the termination hearing indicated that respondent often acted appropriately around her daughter, the evidence also indicated that respondent was mentally unstable and occasionally binged on alcohol and narcotics, despite her attempts to receive treatment.

Respondent's daughter was originally removed from her custody after respondent binged on alcohol and narcotics, although respondent had been in a residential substance abuse treatment program for over a year. There is no indication in the trial court record that another individual supervised respondent's daughter during this binge. Also, the DHS worker who discovered respondent during her binge noticed that respondent had little food in the apartment for her daughter to eat. Further, although respondent apparently received therapy and attended Alcoholics Anonymous meetings for seven months following her daughter's removal from her custody, she again binged on alcohol in her daughter's presence. Evidence presented at trial indicates that during this binge, respondent drove her daughter in her car, although she was drinking and her license had been suspended, and she did not stop her daughter's father from smoking marijuana in the child's presence.

Accordingly, although respondent received treatment for her substance abuse problems, she periodically relapsed and, during these relapses, placed her daughter in danger. Considering this pattern of behavior, the trial court reasonably concluded that a risk existed that respondent would have another binge in her daughter's presence and neglect her daughter or place her in danger. Accordingly, the trial court did not clearly err when it concluded that based on respondent's past conduct and ongoing battle with addiction and mental illness, a reasonable likelihood existed that her daughter would be harmed if she was placed in respondent's custody. Therefore, termination under MCL 712A.19b(3)(j) was proper.

Respondent specifically argues that the trial court erred when it terminated her parental rights to her daughter because respondent was substantially improving in her ability to parent her daughter. Respondent claims that the trial court should not have terminated her parental rights because she complied with several provisions of her treatment plan and continued to receive services in an attempt to improve her parenting skills. However, merely complying with the literal requirements of a treatment plan is insufficient to establish that a child should be returned to her parent's custody; instead, the parent must also benefit from these services. *Gazella, supra* at 676. Again, although respondent complied with several requirements of the treatment plan, she continued to exhibit the problems and general instability that led to her daughter's initial removal from her custody.

Accordingly, the trial court did not clearly err when it terminated respondent's parental rights, despite respondent's compliance with several literal requirements of her treatment plan. Respondent had battled substance abuse and mental health problems for over twenty years and had been in and out of treatment facilities for her daughter's entire life. Respondent continued to relapse, express suicidal intentions, and exhibit symptoms of depression despite her attempts to receive treatment. This pattern continued after respondent's daughter was removed from her custody. Although respondent's treatment plan had been in effect for less than a year at the time the DHS filed the petition to terminate her parental rights, respondent exhibited a pattern of substance abuse and mental illness that had continued for years despite attempts at treatment. Given this longstanding pattern, it is reasonable to conclude that respondent would not have benefited within a reasonable period from the programs and other services required by the treatment plan to the point where she could properly parent her daughter and provide her with a stable home.

Finally, termination of respondent's parental rights is not clearly contrary to her daughter's best interests. MCL 712A.19b(5) states:

If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made, unless the court finds that termination of parental rights is clearly not in the child's best interests.

Both the DHS worker assigned to this case and the child's foster mother testified that the bond between respondent and her daughter weakened over time. Further, respondent's daughter indicated that she wanted to continue to live with her foster family because she could just "be a kid" in their home, instead of caring for her mother and dealing with her relapses. Evidence presented at trial indicated that respondent's daughter was increasingly unwilling to attend visits with her mother and was thriving in her foster home. Not only is respondent unable to care for her daughter, but her daughter no longer has a strong bond with respondent and appears happier living with her foster family. Accordingly, termination of respondent's parental rights was not contrary to her daughter's best interests.

Affirmed.

/s/ Donald S. Owens

/s/ Christopher M. Murray