

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of J.R. CHEEKS, Minor.

UNPUBLISHED
October 15, 2013

No. 315523
Wayne Circuit Court
Family Division
LC No. 10-493879-NA

Before: SAAD, P.J., and SAWYER and JANSEN, JJ.

PER CURIAM.

Respondent appeals by right the circuit court's order terminating her parental rights to the minor child. The circuit court identified no statutory bases, either orally or in the written order, for its decision. We remand.

The circuit court erred by failing to provide a statutory basis to support its decision to terminate respondent's parental rights. To terminate a respondent's parental rights, the court must find that one or more of the statutory grounds set forth in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "An order terminating parental rights under the Juvenile Code may not be entered unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order." MCR 3.977(I)(3) (emphasis added).

The supplemental petition alleged that the child had been sexually abused and sought termination under MCL 712A.19b(3)(c)(i), (g), and (j). The circuit court ultimately terminated respondent's parental rights, in part because respondent had maintained contact with her boyfriend. However, as noted, the circuit court did not specify a statutory basis for its order. The court's order was therefore inadequate because it failed to comply with the requirements of MCR 3.977(I)(3). We remand this matter to the circuit court for entry of a supplemental order articulating the statutory basis or bases for its decision to terminate respondent's parental rights.

In its supplemental order, the circuit court shall also provide additional findings and conclusions concerning its decision to terminate respondent's parental rights. See MCR 3.977(I)(3). We note that the record evidence concerning respondent's blameworthiness was equivocal. Although it is clear that the child had been sexually abused and had contracted various sexually transmitted diseases, it is not clear whether the child was abused by her father or by respondent's boyfriend. While certain evidence tended to indicate that the child was abused by respondent's boyfriend, other evidence pointed to the child's father as the perpetrator. Despite petitioner's conclusion that the child's father was responsible for the sexual abuse, the

circuit court apparently believed that respondent's boyfriend was responsible. The reasons for this belief were never made clear.¹ On remand, the circuit court shall provide further explanation regarding these matters.

Remanded for further proceedings consistent with this opinion. The circuit court shall have 91 days from the date this opinion is released to complete the necessary proceedings on remand and transmit a copy of its supplemental order to this Court. See MCR 7.216(A)(7). We retain jurisdiction.

/s/ Henry William Saad

/s/ David H. Sawyer

/s/ Kathleen Jansen

¹ We acknowledge that, if the sexual abuse was truly perpetrated by respondent's boyfriend, respondent was certainly in a position to protect the child from the abuse.

Court of Appeals, State of Michigan

ORDER

In re J.R. Cheeks, Minor

Docket No. 315523

LC No. 10-493879-NA

Henry William Saad
Presiding Judge

David H. Sawyer

Kathleen Jansen
Judges

Pursuant to the opinion issued concurrently with this order, this case is REMANDED for further proceedings consistent with the opinion of this Court. We retain jurisdiction.

The circuit court shall have 91 days from the date of the Clerk's certification of this order to complete the necessary proceedings on remand. The circuit court shall transmit a copy of its supplemental order to this Court as soon as the proceedings on remand are concluded.

Additional hearings conducted on remand, if any, shall be transcribed and the transcripts shall be filed with this Court within 28 days after the completion of the proceedings.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT 15 2013

Date


Chief Clerk