

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
February 22, 2011

In the Matter of A. BLACK and A. POGUE-  
BLACK, Minors.

No. 298722  
Oakland Circuit Court  
Family Division  
LC No. 2008-744143-NA

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Before: BORRELLO, P.J., and JANSEN and FORT HOOD, JJ.

PER CURIAM.

Respondent mother appeals as of right from an order terminating her parental rights to her two children. For the reasons set forth in this opinion, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that reasonable efforts were not made to prevent termination of her parental rights. It is not clear whether respondent is arguing that there were no statutory bases for termination or whether, given the failure to make “reasonable efforts”, termination was not in the children’s best interests. To the extent she argues the former, that issue is waived pursuant to her plea of admission to the statutory bases set forth in the petition. With regard to the best interest determination, we review for clear error. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009).

MCL 712A.19b(5) provides:

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

Following numerous threats against her children and respondent displaying violent behavior toward case workers and the children’s father, coupled with respondent’s brief incarcerations and attempts at suicide, the trial court determined that it would be in the children’s best interests to terminate respondent’s parental rights because she was “still demonstrating violent, erratic behavior.” The trial court found that respondent’s effort to secure help for her medical instability was made within one week of trial, and her history indicated she would “not remain on a path to control her mental health and improve herself.” Respondent argues that if she had received a psychiatric evaluation sooner, her behavior would have been brought under control. However, she decided not to go through with a previously scheduled examination. She

underwent a later evaluation and was taking medication, but her behaviors persisted, as demonstrated by an altercation two weeks before the best interest hearing that resulted in her incarceration and treatment. Her frequent lapses supported the trial court's conclusion that any changes in behavior would likely not be enduring. Given these circumstances, there was no clear error in concluding that termination of respondent's parental rights was in the children's best interests.

Respondent next argues that she received ineffective assistance of counsel because her attorneys did not request that she be appointed a guardian ad litem. We must discern whether (1) counsel's performance fell below an objective standard of reasonableness under prevailing professional norms; (2) there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different; and (3) the resultant proceedings were fundamentally unfair or unreliable. *People v Odom*, 276 Mich App 407, 415; 740 NW2d 557 (2007).

The trial court had discretion to appoint a guardian ad litem for respondent under MCR 3.916(A). However, there is nothing to suggest that the court would have so exercised its discretion. There was no showing that respondent was in need of a guardian ad litem. Although she had mental health issues, there has been no showing that she did not understand the proceedings or that she did not understand the requirements of the parent/agency agreement. Moreover, there has been no showing that the appointment of a guardian ad litem on her behalf would have resulted in a different outcome. Although there may have been delays in providing services to respondent, she received a psychiatric evaluation and was prescribed medication, and yet was involved in the altercation shortly before the best interest hearing. Given her history, and her violent outbursts right before the best interests hearing, the trial court's prediction that she would "not remain on a path to control her mental health and improve herself" was warranted. Respondent has not proffered any evidence to lead us to conclude that she would have chosen a different path had she been afforded an additional advocate.

Affirmed.

/s/ Stephen L. Borrello  
/s/ Kathleen Jansen  
/s/ Karen M. Fort Hood