

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WILLIE BROOKS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOYCE MESSER,

Respondent-Appellant.

UNPUBLISHED

March 30, 2004

No. 251528

Kent Circuit Court

Family Division

LC No. 02-262601-NA

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

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to her son pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.¹

I. FACTS

In August 2002, petitioner, Family Independence Agency (FIA), filed a petition seeking temporary custody of respondent's son, Willie, on the grounds that respondent was mentally unstable and was not providing Willie with needed medical care. The FIA acted after Families First attempted unsuccessfully to work with respondent to address housing issues and Willie's medical needs. The trial court held a hearing and placed Willie in foster care.

The trial court held a hearing on October 7, 2002 and November 18, 2002. The trial court found that the allegations in the petition were supported by the evidence and made Willie a temporary ward of the court.

Respondent and the FIA entered into a parent-agency agreement. The agreement required respondent to obtain and maintain suitable housing, maintain a legal source of income,

¹ The trial court's order also terminated the parental rights of non-participating respondent Willie Brooks, the child's putative father. Brooks has not appealed the trial court's order.

undergo a psychiatric evaluation and follow its recommendations, attend counseling, attend parenting classes, and visit Willie regularly.

The trial court held a review hearing on February 18, 2003. The evidence showed that respondent had been diagnosed with borderline personality disorder and depression, but refused to take prescribed medication and suffered from extreme mood swings. Respondent was participating in parenting classes, but did not yet have independent housing. She also frequently missed counseling appointments. Therefore, the trial court continued Willie in foster care.

The trial court held a permanency planning hearing on May 20, 2003. The evidence showed that respondent had not participated fully in counseling, and that while she visited Willie consistently, she failed to utilize skills learned in parenting classes. Respondent was unemployed and did not have independent housing. The trial court continued Willie in foster care and ordered the FIA to file a petition to terminate respondent's parental rights.

The FIA filed a petition to terminate respondent's parental rights. The trial court held a permanent custody hearing on August 15, 2003. A psychologist testified that respondent suffered from depression and borderline personality disorder. The psychologist indicated that respondent's conditions were difficult to treat and that if she did not take medication, she would have great difficulty being an effective parent. An infant mental health specialist testified that respondent made some progress in learning to care for Willie, but that respondent's depression was a major obstacle to her being able to be an effective parent. A foster care case manager testified that respondent was unemployed and had difficulty maintaining stable housing. As such, respondent failed to make significant progress in complying with the parent-agency agreement.

The trial court found that clear and convincing evidence existed to terminate respondent's parental rights. The evidence showed that respondent did not follow through with counseling on a consistent basis and failed to take medication prescribed for her anxiety disorder and depression. Respondent visited Willie and formed a bond with him, but seemed unable to utilize skills learned in parenting classes. Respondent failed to maintain stable employment. She located appropriate housing, but expressed concern regarding her ability to maintain the housing without an income. The court found that the FIA offered respondent numerous services to assist her in addressing the issues that resulted in Willie being removed from her custody, but that respondent had been unable to make significant progress in complying with the parent-agency agreement. The court concluded that termination of respondent's parental rights was in Willie's best interests.

II. STANDARD OF REVIEW

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

III. ANALYSIS

We hold that the trial court did not clearly err in finding that petitioner established by clear and convincing evidence the existence of one or more statutory grounds for the termination of respondent's parental rights. The child was removed from respondent's custody because respondent was mentally unstable and failed to provide for his medical needs. Respondent's parent-agency agreement required her to obtain suitable housing, maintain a legal source of income, comply with the recommendations of a psychiatric evaluation, attend counseling and parenting classes, and visit the child. Petitioner offered respondent various services, but respondent made only minimal progress in complying with the parent-agency agreement. Respondent's circumstances at the time of the permanent custody hearing were virtually unchanged from the time the child was removed from her custody. The trial court did not clearly err in concluding that termination of respondent's parental rights was warranted on the grounds that the conditions that lead to adjudication continued to exist and were not likely to be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), and that respondent failed to provide proper care or custody for the child and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g). Furthermore, the trial court did not clearly err in concluding that the evidence did not establish that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *Trejo, supra*.

Affirmed.

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