

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEMARCO TEMPLE, a Minor.

STATE OF MICHIGAN,

Petitioner-Appellee,

v

DEMARCO TEMPLE,

Respondent-Appellee,

and

SHEILA FRILL,

Appellant.

UNPUBLISHED

May 13, 2004

No. 251703

Wayne Circuit Court

Family Division

LC No. 03-419127

Before: Saad, P.J., and Sawyer and Fort Hood, JJ.

MEMORANDUM.

Appellant, mother, appeals an order of disposition that placed respondent, her minor child DeMarco Temple, in the home of his paternal grandmother pursuant to MCL 712A.18(1)(b). Respondent was temporarily placed in the home of his paternal grandmother following his entry of a guilty plea to the charge of school truancy, MCL 712A.2(a)(4). We affirm.

Appellant contends the trial court abused its discretion in placing respondent with the paternal grandmother, rather than first attempting to keep respondent in the parental home with support services. Appellant asserts she petitioned the court for assistance in maintaining the child in her home but that, rather than provide her with the necessary resources, the court deprived her of the right to parent her child. This Court reviews a trial court's findings of fact for clear error and then considers that court's ultimate decision under an abuse of discretion standard. *People v Cheeks*, 216 Mich App 470, 474; 549 NW2d 584 (1996).

There is no dispute that respondent, due to his truant behavior, was within the purview of the juvenile court system. MCL 712A.2(a). Given the appropriateness of the court's jurisdiction, it was specifically empowered, pursuant to MCL 712A.18(1), to "enter [an] order[s] of disposition . . . appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained." The statute clearly provides the court discretion regarding placement of

respondent “in the juvenile’s own home or in the home of an adult who is related to the juvenile.” MCL 712A.18(1)(b). If the plain and ordinary meaning of a statute is clear, judicial construction is neither necessary nor permitted. *In re FIA (On Rehearing)*, 248 Mich App 565, 570; 639 NW2d 600 (2001), citing *Cherry Growers, Inc v Agricultural Marketing & Bargaining Bd*, 240 Mich App 153, 166; 610 NW2d 613 (2000).

The court’s selection of respondent’s paternal grandmother is appropriate because she is within the degree of relationship or consanguinity contemplated by the statute. The court’s ruling regarding respondent’s placement was appropriate given the volatile and potentially violent situation that had developed between respondent and his mother. It was perfectly reasonable and logical for the court to temporarily separate respondent and his mother, as remaining together had only served to further deteriorate their relationship. The court did inquire into the possibility of keeping respondent in the parental home with the provision of community-based services. The court rejected this plan based on the historical failure of respondent and his mother to successfully interact and the anticipation that respondent would continue his course of unacceptable behavior in that setting. Further, the court’s placement decision is consistent with the testimony and recommendation of the juvenile probation officer.

The family court has broad discretion in fashioning a dispositional order for a child within its jurisdiction in order to protect the respondent’s best interests. MCL 712A.18(1)(b); MCR 5.973(A)(5)(b); *In re Brown*, 171 Mich App 674, 677; 430 NW2d 746 (1988). Because there is a serious risk of harm to respondent and appellant if respondent were to reside with appellant, the court quite properly exercised its discretion in placing respondent with his paternal grandmother.

Affirmed.

/s/ Henry William Saad
/s/ David H. Sawyer
/s/ Karen M. Fort Hood