

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of GAVYN RYLEE DELL, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CRYSTAL DELL,

Respondent-Appellant.

UNPUBLISHED

October 12, 2004

No. 256417

St. Joseph Circuit Court

Family Division

LC No. 03-000901-NA

Before: Griffin, P.J., and Saad and O'Connell, JJ.

MEMORANDUM.

Respondent appeals as of right from the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii) and (g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that the trial court abused its discretion in denying her motion for reconsideration of the order terminating her parental rights because she was suffering from drug withdrawal when she entered a no-contest plea to the termination petition and she would be entering a drug rehabilitation program as part of a felony deferred sentence. Respondent also contends that she was entitled to reconsideration because the termination took place less than one year after the original petition was filed, and MCL 712A.19a(1) allows one year before the trial court is required to hold a permanency planning hearing.

We disagree with both arguments. Respondent filed her motion for reconsideration under MCR 3.992, which provides in part, "a motion [for rehearing] will not be considered unless it presents a matter not previously presented to the court, or presented, but not previously considered by the court, which, if true, would cause the court to reconsider the case." MCR 3.992(A). Respondent entered a no-contest plea after petitioner had presented two witnesses. The first witness, a friend of respondent, testified to respondent's drug and alcohol abuse and her abandonment of the child for several days. The second witness, a foster care worker, testified that respondent did not show up for most of her drug tests, and tested positive for marijuana and morphine for some that she did attend. Respondent did not obtain housing or find employment, and never submitted for a substance abuse evaluation or a psychological evaluation. She visited the minor child inconsistently, the last visit being four months before the termination hearing. The trial court accepted respondent's no-contest plea and also found that petitioner had

established, by clear and convincing evidence, the statutory bases of MCL 712A.19b(3)(a)(ii) and (g).

Even if it were true that respondent was suffering from drug withdrawal and that she would soon complete drug rehabilitation, the trial court did not abuse its discretion in denying her motion for reconsideration. The evidence presented by petitioner at the termination hearing was so strong that the meager evidence presented by respondent in her motion for reconsideration would not have caused the court to reconsider the case or alter its original decision. Further, MCL 712A.19a(1) requires the trial court to hold a permanency planning hearing within one year of the filing of the original petition, but also provides that “if a petition to terminate parental rights is filed, the court may enter an order terminating parental rights under subsection (3) at the initial disposition hearing.” There is no requirement that a parent be given one year to improve her or his parenting skills before termination. Therefore, the trial court did not abuse its discretion in denying respondent’s motion for reconsideration.

Affirmed.

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O’Connell