

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SHALANDA RENCE TAYLOR,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
December 6, 2005

Petitioner-Appellee,

v

PHILLIPPA VERONICA HOLMES ,

Respondent-Appellant,

and

JAMES TAYLOR,

Respondent.

No. 262662
Oakland Circuit Court
Family Division
LC No. 04-699859-NA

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Respondent mother Phillippa Holmes appeals as of right from the trial court order terminating her parental rights pursuant to MCL 712A.19b(3)(g), (i), (j), and (l). We affirm.

Respondent mother pleaded no contest to the petition for permanent custody and waived her right to a trial on the statutory bases for termination. Respondent mother argues that her counsel was ineffective for allowing her to make such a plea and that the trial court erred in accepting the plea with no independent basis. Regarding respondent mother's ineffective assistance of counsel claim, we note that she did not request an evidentiary hearing or a new trial in the trial court. Therefore, our review is limited to the existing record. *People v Barclay*, 208 Mich App 670, 672; 528 NW2d 842 (1995). The limited record before this Court contains no evidence from which we could conclude that petitioner would not have established the statutory grounds for termination. Given respondent mother's history of substance abuse, criminality, and instability in her housing, it is clear that petitioner would have established at least MCL 712A.19b(3)(g) and (j) at trial and, therefore, respondent mother suffered no prejudice by pleading no contest to the petition. Furthermore, upon our review of the plea proceedings and the best interests hearing, we also find that the performance of respondent mother's counsel did

not fall below an objective standard of reasonableness or that, but for any alleged error, the result would have been different.

Regarding respondent mother's argument that there was no independent factual basis for her plea, we find that trial counsel's express approval of the plea proceedings waived any alleged error. *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000). The parties agreed on the record that the petition for permanent custody was the factual basis for the plea. Taking the allegations of the petition as true, the statutory bases for termination were established.

Finally, the trial court did not clearly err in its best interests determination. MCL 712A.19b(5). Respondent mother had been jailed since Shalanda was removed from her custody and, when given an opportunity to complete her sentence, she escaped from work release. Even if respondent mother was soon released to a mental hospital or rehabilitation center, there was no indication of when she would be ready to parent Shalanda. Respondent mother may have enjoyed a close bond with Shalanda in the past, but she had not seen the child in over five months. The trial court properly found that Shalanda needed permanence and stability, which respondent mother could not provide.

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello