

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARIA OSTRANDER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICIA OSTRANDER,

Respondent-Appellant,

and

ENSON LOPEZ,

Respondent.

UNPUBLISHED

August 23, 2007

No. 274901

Oakland Circuit Court

Family Division

LC No. 03-681541-NA

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

PER CURIAM.

Respondent Patricia Ostrander appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(j). We affirm.

I. FACTS

Respondent¹ is the minor child's mother. The child suffers from Williams Syndrome, a condition that causes mental retardation, as well as many other health problems, and which involves an extraordinary effort to raise a child with the syndrome. At the bench trial, there was testimony that respondent missed many of the minor child's therapy and doctor appointments and that she lacked the ability to care for the child. The trial court terminated respondent's parental rights. Respondent now appeals the trial court's decision.

¹ Respondent Enson Lopez is not a party to this appeal. Therefore, all references to "respondent" refer to Patricia Ostrander only.

II. STANDARDS OF REVIEW

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355-356; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that the termination is clearly not in the best interests of the children. *Id.* at 364-365. This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding of fact is clearly erroneous if a reviewing court has a definite and firm conviction that a mistake was made, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

III. ANALYSIS

A. Statutory Ground for Termination

The trial court did not clearly err by finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). Under MCL 712A.19b(3)(j), the trial court may terminate a parent's rights to a child if the court finds, by clear and convincing evidence, that "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." In this case, the child suffers from Williams Syndrome, a condition involving various abnormalities including slow brain development, cardiovascular disease, kidney impairments, eye problems, and mental retardation. According to the child's doctor, raising a child with Williams Syndrome involves "a tremendous amount of time and organization above and beyond that" necessary to raise a normal child. The evidence established that respondent attended only 38 of 52 doctor appointments and 12 of 142 therapy appointments. She never asked what skills were addressed in missed classes and stated that she attended one class weekly in order to give the foster parent a break. However, it was important for respondent to attend therapy sessions to develop skills necessary to interact with the child.

The evidence also showed that respondent was unable to timely schedule the child's doctor appointments, was not knowledgeable regarding the child's medications, and often relied on the foster parents to provide necessary information to the child's doctors. Respondent's psychological evaluation indicated that she did not have very strong insight into the child's medical issues. Indeed, on one occasion, she attempted to feed the child ice cream even though the child is lactose intolerant. Respondent's caseworkers questioned whether respondent understood the child's health issues and indicated that despite her apparent good intentions, she failed to follow through regarding the child's healthcare needs. Therefore, because the evidence showed that respondent was either unwilling or incapable of caring for the child, given the child's very serious health problems, the trial court did not clearly err in determining that, based on respondent's conduct or capacity, a reasonable likelihood of harm existed if the child was returned to respondent's care.

B. Best Interests of the Child

Once petitioner presented clear and convincing evidence supporting at least one statutory basis for termination, the trial court was required to terminate respondent's parental rights unless

there existed clear evidence that termination was not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 354; *In re CR*, 250 Mich App 185, 195; 646 NW2d 506 (2002). The record shows that respondent was not fully cognizant of the child's condition, was not able to properly manage the child's medications and doctor and therapy schedule, and did not understand the importance of attending therapy sessions. Accordingly, we conclude that the trial court's best interests determination was not clearly erroneous.

Affirmed.

/s/ Alton T. Davis

/s/ Bill Schuette

/s/ Stephen L. Borrello