STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of MAKAYLA ALHAKIM, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MELISSA TYSZKOWSKI,

Respondent-Appellant.

UNPUBLISHED
October 25, 2007

No. 276708
Macomb Circuit Court
Family Division
LC No. 2005-058709-NA

Before: Kelly, P.J., and Meter and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to her minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

In order to terminate parental rights, a trial court must find that at least one statutory basis for termination has been established by clear and convincing evidence. *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2002). Once it makes such a finding, the court must order termination of parental rights unless it would clearly not be in the child's best interests. MCL 712A.19b(5). We review for clear error both the trial court's finding that grounds for termination exist and the court's decision regarding the child's best interests. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We find that there was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g) and that termination was not clearly contrary to the best interests of the child.

MCL 712A.19b(3)(g) states:

> The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, [that] . . . [t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

At the time of the termination hearing, respondent had still not obtained suitable housing, despite the fact that obtaining such housing was a requirement of her parent-agency agreement (PAA). Respondent herself testified that the home in which she was residing was not appropriate for the child.[1] Moreover, although respondent had obtained some counseling, there was evidence that she continued to lack insight into her problems. Additionally, Dr. Patrick Ryan indicated that respondent would need an established, skilled support system in order to adequately care for the child. There was insufficient evidence that such a support system was in place. Finally, and significantly, there was evidence that respondent continued to have contact with and was living with the child's biological father, who physically abused the child and caused the instant child protective proceedings to be initiated.

While it is clear that respondent did comply with some (although not all) aspects of her PAA, this Court has stated:

> [I]t is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody. In other words, it is necessary, but not sufficient, to physically comply with the terms of a parent/agency agreement or case service plan. For example, attending parenting classes, but learning nothing from them and, therefore, not changing one's harmful parenting behaviors, is of no benefit to the parent or child. [*In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).]

There was evidence that respondent could not adequately parent the child, and would not be able to do so within a reasonable time, despite her completion of parenting classes, her attendance at counseling, and the other ways in which she complied with the PAA. Considering all the circumstances, termination was appropriate under MCL 712A.19b(3)(g). Because termination was proper under this subsection, we will not address the remaining statutory grounds. See *In re Sours*, 459 Mich 624, 640-641; 593 NW2d 520 (1999).

We further find that the trial court did not clearly err in determining that it would not be clearly contrary to the best interests of the child to terminate respondent's parental rights.[2] The

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[1] Although one of respondent's aunts testified that respondent and the child could live with her, she specified that this would be on a temporary basis. Another aunt also indicated that respondent and the child could live with her, but a foster care worker testified that this same aunt had told her that her home was not big enough to accommodate both the child and respondent. Finally, although respondent's mother testified that respondent and the child could live with her at a home she had just rented, the mother had not even moved into the house at the time of her testimony and therefore could not have known with certainty how respondent and the child would fare in the home. The fact remains that respondent, at the time of the termination hearing, did not have adequate housing in place for her and the child, even though obtaining such housing was a requirement of her PAA.

[2] We reject respondent's argument that the trial court failed to make sufficient findings regarding the best interests portion of the termination analysis. It is clear that, in analyzing the child's best interests, the court referred back to the evidence that was also pertinent to the statutory

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child was young and needed stability, and there was evidence from Dr. Ryan that the child would likely experience special needs related to the brain injury inflicted by her biological father. She needed a stable, effective caretaker and also needed to be kept away from the person who had injured her in the past. The evidence demonstrated that respondent could not adequately fulfill these needs.

Respondent contends that petitioner failed to offer adequate services to respondent in order to facilitate reunification. She contends that petitioner essentially violated the Americans with Disabilities Act, 42 USC 12101 *et seq.*, in failing to provide additional services. See *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000) ("if the [petitioner] fails to take into account the parents' limitations or disabilities and make any reasonable accommodations, then it cannot be found that reasonable efforts were made to reunite the family"). We disagree. A foster care worker testified that petitioner provided respondent with all the services available. Moreover, respondent obtained help from other sources in complying with her PAA. For example, respondent admitted that a fellow student assisted her with tasks during her parenting classes, and respondent's mother also admitted that she helped respondent in many areas during the pendency of the case. We cannot agree that petitioner was remiss in failing to provide even more help than respondent was already obtaining. Moreover, and significantly, Dr. Ryan testified that even if respondent were to receive additional services, she would still need a significant support system in order to care for the child. There was insufficient evidence that a demonstrated, stable, and long-term support system was in place.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Patrick M. Meter
/s/ Elizabeth L. Gleicher

(…continued)

termination factors.