

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BEATRICE SHANEL COLLIER
and MARKIA RAJA MILLER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CORDELLIA MILLER, a/k/a CORDELLIA
COLLIER,

Respondent-Appellant.

UNPUBLISHED
December 6, 2007

No. 278257
Oakland Circuit Court
Family Division
LC No. 06-725921-NA

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

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (g), (j), and (l). For the reasons set forth in this opinion, we affirm.

Respondent has given birth to eight children. Only the parental rights to two of those children, Beatrice and Markia, are at issue in this appeal. Due to her 20-year history of substance abuse, mental health issues and chronic abuse and neglect, respondent has not cared for any of her children for a significant period of time. Beatrice and Markia were removed when Beatrice reported that she was afraid to return to her home, that her mother was prostituting from the home, that respondent was abusing drugs, and that the drug paraphernalia was seen by the girls in the home. After the girls were removed from the home, respondent entered a no-contest plea to the allegations in the petition. The court then held a best interests hearing, after which it concluded that there was no evidence that termination would not be in the girls' best interests.

Respondent argues that the statutory grounds for termination of her parental rights were not established by legally admissible evidence. Respondent correctly asserts that a trial court's termination decision must be based on legally admissible evidence when parental rights are terminated at the initial disposition. MCR 3.977(E)(3). However, respondent entered a no-contest plea and stipulated that the allegations in the complaint would form the factual basis for the plea. This permitted the trial court to accept as uncontested the allegations in the petition. Moreover, before the best interests hearing, respondent's counsel specifically stated on the record, "it is clear that the Prosecutor has met the statutory grounds as to termination of parental

rights.” Respondent may not now assign as error on appeal something that she deemed proper in the court below. *Marshall Lasser, PC v George*, 252 Mich App 104, 109; 651 NW2d 158 (2002).

Respondent also argues that a no-contest plea is only relevant to the assumption of jurisdiction. The court rules specifically provide that a no-contest plea “can later be used as evidence in a proceeding to terminate parental rights if the respondent is a parent,” MCR 3.971(B)(4), and the court advised respondent of this on the record before accepting her plea. Moreover, even without the plea being considered, there was sufficient, legally admissible evidence to support termination of respondent’s parental rights. At the bench trial, before respondent decided to enter a plea, she gave lengthy testimony regarding her history with child protective services and the disposition of the cases concerning six other children. In addition, respondent testified regarding her long-term substance abuse and mental health issues. While respondent denied that she engaged in prostitution, she described a relationship with male “associates” and the exchange of money that sounded like prostitution. This evidence was more than sufficient to establish several statutory grounds for termination. Respondent’s testimony was legally admissible as a party admission. MRE 801(d)(2)(A). Moreover, because child protective proceedings are considered one continuous proceeding, it was proper for the court to consider respondent’s testimony given before her plea. *In re King*, 186 Mich App 458, 465; 465 NW2d 1 (1990). Based upon the foregoing, we find no merit to respondent’s argument that the court’s ruling was not based upon legally admissible evidence.

Finally, the evidence did not show that termination of respondent’s parental rights was clearly not in the children’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d (2000). There was no evidence that respondent was in a position to parent her children in the foreseeable future. She could not independently provide housing or care for her children, she had no employment, and she had not adequately addressed her substance abuse issues. Furthermore, the girls both demonstrated behavioral problems that were directly related to damage done by respondent’s parenting. Both girls stated that they liked the foster home, and they were doing well in that environment. The girls were at an age where their preference could be considered; neither daughter wished to live with respondent. The evidence failed to show that termination was clearly contrary to the children’s best interests.

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher