

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JORDAN JOHNSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LORI JOHNSON,

Respondent-Appellant,

and

JAMES SPEAR,

Respondent.

UNPUBLISHED

December 18, 2007

No. 278023

Wayne Circuit Court

Family Division

LC No. 05-444810-NA

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

PER CURIAM.

Respondent-appellant, the mother of Jordan Johnson, appeals as of right a circuit court order terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i) [the conditions leading to the adjudication continue to exist with no reasonable likelihood of rectification within a reasonable time given the child's age]; (g) [irrespective of intent, the parent fails to provide proper care or custody and no reasonable likelihood exists that she might do so within a reasonable time given the child's age], and (j) [based on the parent's conduct or capacity, a reasonable likelihood exists that the child will be harmed if returned to the parent's home]. We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Facts and Proceedings

On July 22, 2005, respondent brought Jordan to Children's Hospital of Michigan (CHM), because Jordan had gained only one pound since her birth two months earlier. CHM discharged Jordan on August 2, 2005. At that time, respondent resided temporarily at the Ronald McDonald House, a facility affiliated with CHM. On August 2, 2005, a CHM worker contacted the police and reported a concern about Jordan's failure to gain weight. Another caller told the police that respondent "assaulted" Jordan at the Ronald McDonald House. The police placed Jordan into emergency foster care.

At a preliminary hearing conducted on August 3, 2005, Jennifer Miller, a Child Protective Services worker, testified that respondent lived in a homeless shelter and failed to feed Jordan correctly. A circuit court referee authorized Jordan's continued placement in temporary foster care, finding that respondent lacked suitable housing, failed to give Jordan adequate amounts of formula, and neglected to fill Jordan's medication prescription. On August 11, 2005, petitioner filed a petition seeking circuit court jurisdiction over Jordan on the basis of neglect. The petition alleged that respondent fed Jordan inadequately and inappropriately, did not have stable housing, and suffered from serious physical and mental health problems that impaired her own ability to care for her child. According to the petition, respondent did not take her prescribed medications, and had a difficult time understanding and following directions.

At an adjudication trial conducted on several dates in September 2005 and October 2005, a worker at the Ronald McDonald House testified that respondent admitted to having "smacked" Jordan, but denied hurting her. A CHM social worker testified that respondent incorrectly assembled Jordan's formula, despite having been provided with detailed feeding instructions on several occasions. Other evidence revealed that Jordan suffered from acid reflux, which caused or contributed to her failure to thrive. At the conclusion of the hearing, the circuit court assumed jurisdiction over Jordan, finding that respondent had medically neglected and physically abused Jordan, and ordered that Jordan remain in foster care.

On January 19, 2006, Syreeta Scott, a foster care worker, testified at a review hearing that Jordan was doing well in foster care, and that respondent had complied with the case service treatment plan. At the next review hearing, however, Scott testified that respondent had been evicted from her home, and failed to obtain the domestic violence counseling required by the treatment plan. On July 27, 2006, the circuit court conducted a permanency planning hearing. Scott testified that in June 2006, respondent voluntarily entered a psychiatric hospital with "suicidal feelings." After respondent's hospital discharge, according to Scott, respondent did not fill the prescription for her medication and did not obtain recommended follow-up care. Scott related that respondent's home lacked gas service, and that respondent and her husband did not pay their rent in July. The referee authorized petitioner to file a supplemental petition for termination of respondent's parental rights.

At the termination hearing conducted on April 5, 2007 and April 12, 2007, a family therapist testified that respondent reported having "sexual impulses" toward children, and that respondent herself had been sexually abused. The therapist reported that respondent failed to take her prescribed medication, and voluntarily returned to a hospital in January 2007 with "suicidal ideations." According to the therapist, respondent admitted feeling incapable of caring for Jordan, but "vacillate[d]" about her parenting ability when confronted with the possibility of termination of her rights. Scott testified that respondent completed parenting classes but failed to benefit from them, and lived "in seven different locations since the beginning of this case." Scott also described that respondent received monthly social security payments of approximately \$600, and paid \$425 monthly for rent. Scott further testified that Jordan had no bond with respondent, and "cries a lot when she's held by her mother." Scott stated that respondent acknowledged concern about her ability to place her child's needs before her own. Respondent testified that she did not take her prescribed medications because "I don't like . . . medication," and denied that she had ever neglected Jordan's nutritional needs. She claimed that she had followed all of the

physicians' instructions regarding Jordan's feeding, and expressed that she would "eventually" like to take care of her daughter.

The circuit court acknowledged respondent's desire to parent her child, and the "challenges" to bonding created by Jordan's wardship. The court found, however, that respondent had "serious mental health issues . . . that have not been fully addressed," and that respondent lacked an understanding of the circumstances that resulted in circuit court jurisdiction. The circuit court ruled that MCL 712A.19b(3)(c)(i), (g) and (j) provided grounds to terminate respondent's parental rights, and found that termination was "in the best interests of the child."

Respondent now appeals as of right.¹

II. Issues Presented and Analysis

Respondent contends that insufficient evidence of any statutory ground supported the circuit court's decision to terminate her parental rights.

This Court reviews for clear error a circuit court's finding that a ground for termination has been established by clear and convincing evidence "and, where appropriate, the court's decision regarding the child's best interest." *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005) (internal quotation omitted); see also MCR 3.977(J). "A trial court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake had been made." *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

Clear and convincing evidence supports the circuit court's reliance on MCL 712A.19b(3)(c)(i) as a ground for terminating respondent's parental rights. Jordan entered care at two months of age because respondent lacked suitable housing and failed to provide for Jordan's nutritional needs. Respondent's mental and emotional problems contributed to her homelessness, as well as to her inability to properly care for Jordan. During the approximately 1-1/2 years of proceedings in the circuit court, respondent twice sought hospital treatment for suicidal feelings, failed to take prescribed medication, and did not obtain recommended follow-up care. She frequently changed her residence and vehemently denied that she contributed to Jordan's failure to thrive. These facts clearly and convincingly demonstrate that the conditions leading to the adjudication continued to exist without likelihood of rectification within a reasonable time given Jordan's age.

Clear and convincing evidence also supported the circuit court's finding that, without regard to intent, respondent failed to provide proper care and custody for Jordan, and that no reasonable expectation existed that she could do so within a reasonable time, considering Jordan's young age. The abundant evidence relevant to subsection (c)(i) established that respondent neglected Jordan's nutritional requirements and, due to respondent's own emotional

¹ The circuit court also terminated the paternal rights of respondent's husband, James Spear. He is not a party to this appeal.

problems, was unlikely to place Jordan's needs before her own. This evidence provided a clear and convincing basis for the circuit court's decision to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(g).

We further observe that the circuit court properly relied on MCL 712A.19b(3)(j), which authorizes termination if "[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." Respondent admitted to her therapist that she had sexual impulses toward children and suicidal thoughts. Despite these admissions, respondent did not pursue sexual abuse counseling, and refused to take prescribed psychiatric medications. She denied any responsibility for Jordan's failure to gain weight as an infant. The totality of the evidence clearly and convincingly supports the circuit court's conclusion that respondent's problems, and her unwillingness to address them, would seriously jeopardize Jordan's safety and security.

Respondent also challenges the circuit court's best interests finding pursuant to MCL 712A.19b(5). If the circuit court finds a ground for termination of parental rights has been established, termination is required unless the court finds that termination is clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). Ample evidence supports the court's finding that termination of respondent's parental rights would not contravene Jordan's best interests. At the time of the hearing, Jordan had spent most of her life in foster care. According to the testimony, Jordan thrived in her foster care placement. Moreover, respondent and Jordan shared no bond, and Jordan cried when held by respondent. We agree with the circuit court's determination that termination of respondent's parental rights is consistent with Jordan's best interests.

Affirmed.

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