STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of OPAL MATTSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

REANATE MATTSON,

Respondent-Appellant.

UNPUBLISHED
May 13, 2008

No. 281258
Clinton Circuit Court
Family Division
LC No. 05-018322-NA

Before: Wilder, P.J., and O'Connell and Whitbeck, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent first argues that the trial court erred in finding that a statutory ground for termination was established by clear and convincing evidence. We disagree. We review the trial court's findings of fact for clear error. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). It is undisputed that respondent has a long history of mental illness and has been diagnosed with Dissociative Identity Disorder (DID), a disorder in which two or more alter personalities exist that may take executive function of the body. In May 2005, respondent volunteered for temporary hospitalization to treat her mental illness, and in September 2005, her husband committed suicide. Afterward, respondent did not feel that she was able to care for the child by herself, and the child was removed from respondent's care at the end of September.

Over the next two years, respondent attended numerous therapy sessions and was treated by several different psychologists. At the termination hearing, conflicting testimony was presented regarding the effect of therapy and treatment on respondent's condition and how respondent's condition affected her ability to care for the child. Despite the existence of many favorable opinions, other witnesses testified that respondent did not have her DID condition under control, and several witnesses testified that various alter personalities continued to emerge. Testimony indicated that respondent would experience memory loss on occasions when an alter personality was active, and several witnesses concluded that the emergence of an alter personality would place the child at risk of harm, either because the child could be exposed to a dangerous situation or because respondent would not be able to provide proper care if an alter personality took over. The evidence also indicated that treatment for DID generally requires

intensive and lengthy therapy, and there was evidence that, despite years of therapy, respondent was still at the beginning stages of treatment.

The trial court specifically found that respondent had a history of substance abuse, violent relationships, and mental illness. Her serious mental problems were manifested by a suicide attempt and physical abuse of her two older children. Under the circumstances, petitioner presented clear and convincing evidence that respondent's condition was not likely to be resolved within a reasonable time considering the child's age, and that it was reasonably likely that the child would suffer harm because of respondent's incapacitating mental illness. MCL 712A.19b(3)(c)(i) and (j); *In re Trejo, supra* at 356-357. The trial court did not clearly err by finding in accordance with this evidence. *In re Trejo, supra* at 356. Because an order terminating parental rights only needs to be supported by a single statutory ground, see *id*. at 355-356, it is unnecessary to consider whether termination was also justified under MCL 712A.19b(3)(g).

Respondent next argues that the trial court abused its discretion by denying her request for a psychological evaluation of the child, and by denying her request for production of a videotape of an assessment conducted by the University of Michigan Family Assessment Clinic (FAC). We disagree. Because these issues involve discovery matters, we review the trial court's decisions for abuse of discretion. *Harrison v Olde Financial Corp*, 225 Mich App 601, 614; 572 NW2d 679 (1997). As the trial court observed, the child had already been evaluated several times before, so there was a wealth of information already available concerning her mental state. Although the child had not been evaluated by a psychologist, she received two psychosocial evaluations and multiple interviews by the University of Michigan team. She was also evaluated by three different social workers. The trial court determined that it would not be in the child's best interests to require her to open up to yet another professional with whom she had no prior relationship. Respondent did not request a psychological evaluation until the first day of trial. Considering the information that was already available, the number of evaluations to which the child had been subjected, and the late date of the motion, there was a principled basis for the trial court's decision, and the trial court did not abuse its discretion by denying respondent's motion. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006).

Further, the trial court did not abuse its discretion by denying respondent's request for a videotape of the FAC assessment. Respondent relies on MCR 3.977(G)(2) to argue that she was entitled to a copy of the videotape. However, that rule provides that a respondent at a hearing to terminate parental rights "must be afforded an opportunity to examine and controvert written reports . . . and shall be allowed to cross-examine individuals who made the reports when those individuals are reasonably available." MCR 3.977(G)(2). In this case, respondent was provided with the FAC report and was afforded an opportunity to cross-examine those who compiled it, so the trial court did not contravene this rule.

The issue really involves pretrial discovery in a child protective proceeding, which is governed by MCR 3.922(A)(1). That rule generally requires that requests for recorded statements of the parties should be made more than twenty-one days before trial and that discoverable recorded statements are those within the control of petitioner or law enforcement. See MCR 3.922(A)(1). Respondent clearly did not comply with the time limit, and she never demonstrated that the videotape was within petitioner's control. Even if respondent could have obtained the videotape through petitioner's cooperation, her belated attempts to recover the

videotape always carried some request for further delay. First, respondent requested a halt to the proceedings until the videotape was delivered, and later she requested continuances so that the videotape, once received, could undergo further review by a new psychologist. Coupled with the request for further delay, respondent's prejudice from not having the videotape was more than offset by the trial court's need to resolve the two-year-old case promptly, especially in light of the fact that the videotaped evaluation had little influence on the court's ultimate decision. Instead, the trial court placed much more emphasis on respondent's regression from her initial honesty about her serious mental problems and her recently guarded approach to dealing with the struggles and sacrifices that faced her as a prospective parent. Under the circumstances, the trial court did not abuse its discretion by denying respondent's mid-trial discovery motions.

Finally, the trial court did not abuse its discretion by overruling respondent's objection to social worker Jennifer Azar's opinion testimony as speculation. *In re Archer*, 277 Mich App 71, 77; 744 NW2d 1 (2007). Azar never testified that the bonding problem she observed was due to a lack of emotional interaction in the past. She merely agreed that a lack of past emotional interaction could explain the problems the child had with bonding to respondent. Because Azar was qualified as an expert in social work who specialized in children's attachment behaviors, her opinion was proper under MRE 702.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Peter D. O'Connell
/s/ William C. Whitbeck