

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TRE'VONN CALVIN BARNES
and AARON LASHAE' GLASPIE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SONYA M. BARNES,

Respondent-Appellant.

UNPUBLISHED

October 21, 2008

No. 284630

Wayne Circuit Court

Family Division

LC No. 07-473968-NA

Before: Servitto, P.J., and Donofrio and Fort Hood, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights to Aaron Glaspie pursuant to MCL 712A.19b(3)(g), (j), and (n)(i).¹ We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that the trial court erroneously took judicial notice of the court file. Because respondent did not object to the evidence below, this issue is not preserved for appeal. *People v Knox*, 469 Mich 502, 508; 674 NW2d 366 (2004). Therefore, the issue is reviewed for plain error affecting respondent's substantial rights. *Hilgendorf v St John Hosp & Medical Ctr Corp*, 245 Mich App 670, 700; 630 NW2d 356 (2001). Respondent has not shown that the trial court relied on any allegedly improperly-noticed fact contained in the file in deciding the case and, therefore, has not established that her substantial rights were affected by any alleged error.

Respondent next claims that the trial court failed to make specific findings of fact. The court is required to "state on the record or in writing its findings of fact and conclusions of law." MCR 3.977(H)(1). "Brief, definite, and pertinent findings and conclusions on contested matters are sufficient." *Id.* Although the trial court's findings were brief, it is clear from the record that

¹ A second child, Tre'Vonn Barnes, was dismissed from the petition and only respondent's parental rights to Aaron Glaspie were terminated.

the court was aware of the issues in the case and applied the applicable law. It found that the material allegations in the petition were true and that the substantiated allegations warranted both the assumption of jurisdiction and the termination of respondent's parental rights at the initial dispositional hearing. Review would not be facilitated by remand for further explanation. *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995).

Regarding the trial court's decision to terminate respondent's parental rights, the court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Archer*, 277 Mich App 71, 73; 744 NW2d 1 (2007). Although respondent provided proper care and custody for Aaron immediately after the child's birth, she fatally stabbed Aaron's father and was convicted of second-degree murder. Such a crime "demonstrates a callous disregard for the welfare of one's children" and is such as to render the parent unfit for future custody. *In re Mudge*, 116 Mich App 159, 162-163; 321 NW2d 878 (1982). Respondent also admitted that she was awaiting sentencing and that she could be incarcerated for anywhere from two years to life. Petitioner was not required to prove that respondent would neglect her child for the long-term future as held in *Fritts v Krugh*, 354 Mich 97, 114; 92 NW2d 604 (1958), overruled on other grounds by *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). That case predates the enactment of § 19b(3), which now sets forth the criteria for termination.

Further, the evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). The court was not obligated to place the child with relatives and maintain temporary wardship in lieu of termination. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999); *In re McIntyre*, 192 Mich App 47, 53; 480 NW2d 293 (1991); *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984). Therefore, the trial court did not err in terminating respondent's parental rights to the child. *Trejo, supra* at 356-357.

We note that respondent takes issue with the trial court's failure to hold separate adjudicatory and dispositional hearings as required by *In re AMAC*, 269 Mich App 533; 711 NW2d 426 (2006). Although the trial court plainly erred, this unpreserved error did not affect respondent's substantial rights. *Keenan v Dawson*, 275 Mich App 671, 681; 739 NW2d 681 (2007); *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007), aff'd 480 Mich 19 (2008). Both parties presented evidence regarding disposition at the hearing without objection. Respondent elicited testimony favorable to herself from petitioner's witness, she testified on her own behalf regarding her desire to plan for custody, she had the opportunity to present additional evidence on the issue had she wished to do so, and the trial court addressed the best interests factor. Even if respondent had called relatives to testify that they were willing take responsibility for the child indefinitely, respondent's conduct still showed that termination was not clearly contrary to the child's best interests.

Affirmed.

/s/ Deborah A. Servitto
/s/ Pat M. Donofrio
/s/ Karen M. Fort Hood