STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of BLAKE MICHAEL WILLIAMS, ANNA JORDAN WILLIAMS, CLAUDELL RICKEY SMITH, JR., and RICKEY CLAUDELL SMITH, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LAURA JANE SMITH, f/k/a, LAURA JANE HIATT,

Respondent-Appellant,

and

CLAUDELL RICKEY SMITH, SR. and MICHAEL E. WILLIAMS, JR.,

Respondents.

UNPUBLISHED
April 30, 2009

No. 288028
Cass Circuit Court
Family Division
LC No. 2006-000226-NA

Before: Wilder, P.J., and Meter and Servitto, JJ.

PER CURIAM.

Respondent, Laura Jane Smith, appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). Because respondent was not denied due process of law, and clear and convincing evidence supported termination of respondent's parental rights, we affirm.

In October 2006, a petition was filed concerning respondent's five minor children[1], indicating that: CPS received referrals alleging abuse and neglect of the children in August and

[1] Respondent's parental rights were ultimately terminated only with respect to the four youngest children.

October 2006; there had been prior substantiated allegations for the same; the children had previously been removed from respondent's care in December 2001; the children had been exposed to criminality (respondent and her then-husband Claudell Rickey Smith, Sr. having been charged with armed robbery); the children all struggled with behavior issues and functioning at school; and, there was ongoing domestic violence in the household. The trial court took jurisdiction over the children in December 2006.

A case services plan was implemented that required, among other things, that respondent and the children undergo psychological evaluations, and that respondent attend individual therapy sessions, parenting training, and domestic violence classes. When the children's psychological evaluations revealed that all but the youngest (only a few months old) suffered from various psychological and behavioral issues, the children began counseling and therapy sessions of their own. After it appeared that respondent was making little to no progress in her services, a termination trial was scheduled for June 2008. At the conclusion of the seven-day trial, the trial court terminated respondent's parental rights.

On appeal, respondent first argues that she was denied due process of law by virtue of the trial court's denial of defense counsel's motion to withdraw and the resulting conflict created by counsel's forced representation of respondent. We disagree.

The trial court's decision whether to allow counsel to withdraw is reviewed for an abuse of discretion. *In re Withdrawal of Attorney*, 234 Mich App 421, 431; 594 NW2d 514 (1999). An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of reasonable and principled outcomes. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

Respondent retained counsel in April 2007.[2] In late May 2008, respondent filed a "motion for continuance due to exceptional circumstances" citing various complaints concerning her counsel's representation. Counsel thereafter filed a motion to withdraw, indicating that respondent had fired her. At the June 5, 2008 hearing on both motions, most of the attorneys for the remaining parties either did not object to the withdrawal but objected to any continuance, or objected to both, indicating that the longer the proceeding dragged on, the harder it would be on the children. Acknowledging that respondent did not wish to proceed in pro per but instead sought the appointment of new counsel, the trial court denied the motion to withdraw and the motion for continuance. The trial court indicated that it must balance the right to choose counsel against the public's interest in the proper and efficient administration of justice and that the children in this matter needed permanency. The trial court also noted that the case was scheduled for trial the next week and opined that no attorney could become acquainted with the case in such a short time. The trial court thus ordered counsel to continue to represent respondent, stating she would now do so as court-appointed counsel and trial proceeded as scheduled.

[2] Respondent had been appointed counsel when this case began, but substituted her own retained counsel shortly thereafter.

Pursuant to MCR 3.915(B)(1)(a)(i), a respondent in a child protective proceeding has the right to a court appointed attorney if the respondent is financially unable to retain an attorney. The right to appointed counsel at such proceedings is also a fundamental constitutional right guaranteed by the equal protection clauses of the United States and Michigan Constitutions. *Matter of Trowbridge*, 155 Mich App 785, 786; 401 NW2d 65 (986). "It is axiomatic that the right to counsel includes the right to competent counsel." *Id.* The right to counsel does not, however, include the right to have the attorney of his or her choice appointed simply by requesting that the attorney originally appointed be replaced. *People v Traylor*, 245 Mich App 460, 462; 628 NW2d 120 (2001).

When reviewing a trial court's decision to deny an attorney's motion to withdraw and party's motion for a continuance to obtain another attorney, we consider the following factors:

> (1) whether the defendant is asserting a constitutional right, (2) whether the defendant has a legitimate reason for asserting the right, such as a bona fide dispute with his attorney, (3) whether the defendant was negligent in asserting his right, (4) whether the defendant is merely attempting to delay trial, and (5) whether the defendant demonstrated prejudice resulting from the trial court's decision. *People v Echavarria*, 233 Mich App 356, 369; 592 NW2d 737 (1999).

Moreover, appointment of a substitute counsel is warranted only upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process. *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991). Good cause exists where a legitimate difference of opinion develops between a party and his appointed counsel with regard to a fundamental trial tactic. *Id.*

Counsel represented respondent from April 2007, apparently without complaint or incident, until approximately May 2008. Respondent then brought her 13th hour motion setting forth several complaints about counsel's representation and requesting the appointment of new counsel and a continuance. Assuming respondent is asserting a constitutional right to the appointment of counsel (as set forth in *People v Echavarria, supra*), she has not demonstrated a legitimate reason for asserting the right, such as a bona fide dispute with her attorney. See People *v Echavarria, supra*.

In seeking the appointment of new counsel, respondent first took issue with the fact that counsel did not file a response to the termination petition. As the trial court explained, however, filing such an answer is very rare. Moreover, counsel's decision not to file the response clearly falls within the categories of professional judgment and trial strategy that are matters entrusted to the attorney. See, e.g., *People v O'Brien*, 89 Mich App 704, 708; 282 NW2d 190 (1979). In any event, respondent filed an answer to the termination petition (and an amended answer), which became part of the trial court file. Respondent, then, suffered no prejudice due to counsel's failure to file an answer to the termination petition. See, *People v Traylor*, 245 Mich App 460, 463; 628 NW2d 120 (2001).

Respondent also contended that counsel did not conduct discovery and left only a week to prepare for trial. However, a discovery request by counsel appears in the record, and counsel indicated in a May 16, 2008 letter to respondent that she was continually working on the case.

Respondent also alleged that counsel did not provide her with a proper defense. Respondent does not, however, suggest any specific or alternative actions that counsel should have taken in order to provide her with a "proper defense" (other than those previously described). In any event, trial strategy is a matter entrusted to the attorney. *People v O'Brien, supra.*

Notably, counsel represented respondent for a thirteen-month period, in which she attended numerous hearings on respondent's behalf. If respondent had a legitimate concern about counsel's preparation, strategies, or other representation, it is reasonable to assume that such concerns would have manifested themselves much earlier in the proceedings. That respondent did not voice any complaint about counsel's representation until mere weeks before trial suggests that respondent was either negligent in asserting her right to substitute counsel or was merely attempting to delay trial. *People v Echavarria, supra.*

While respondent indicates that the relationship between her and counsel was adversarial such that she was effectively deprived of her right to counsel, the record reflects that respondent refused to communicate civilly with counsel. The self-created adversarial tone of their relationship does not give rise to good cause for allowing withdrawal. "A defendant may not purposely break down the attorney-client relationship by refusing to cooperate with his assigned attorney and then argue that there is good cause for a substitution of counsel." *People v Traylor,* 245 Mich App 460, 462-463; 628 NW2d 120 (2001). The fact that respondent filed a grievance against counsel also does not necessarily establish good cause for the appointment of substitute counsel. See *People v Mitchell,* 454 Mich 145, 170; n 30; 560 NW2d 600 (1997) (although grievances against attorneys may be legitimate, they are also prompted by a desire for a new attorney, or an adjournment, and are routine incidents).

Our review of the lower court record reveals that counsel had done an exemplary job representing respondent up to the point of respondent's motion, vigorously arguing on her behalf. Counsel continued to vigorously advocate on behalf of respondent at trial, objecting at appropriate times, thoroughly cross-examining petitioner's witnesses, producing and effectively examining the witnesses respondent sought to have testify, and submitting documentary evidence to the court that refuted petitioner's evidence and was positive to respondent's position. The record demonstrates that counsel was prepared at every proceeding and competent to represent respondent. There was no evidence of counsel's inadequacy, or of a legitimate dispute in respondent's relationship with counsel, and respondent demonstrated no prejudice resulting from the trial court's decision. See *People v Echavarria, supra.* Respondent's request for substitute counsel having not been supported by a showing of good cause, we conclude the trial court did not abuse its discretion in refusing to allow counsel to withdraw, particularly when the scheduled termination hearing was imminent and the appointment of substitute counsel would unreasonably disrupt the judicial process. See *People v Mack, supra.* Respondent was likewise not deprived of due process due to counsel's continued representation.

Respondent next contends that she was denied due process when the trial court judge failed to disqualify herself. We disagree.

The factual findings underlying a ruling on a motion for disqualification will be reversed only for an abuse of discretion, while application of the facts to the law is reviewed de novo. *Cain v Dep't of Corrections,* 451 Mich 470, 503 n 38; 548 NW2d 210 (1996).

MCR 2.003(B) provides that a judge is disqualified "when the judge cannot impartially hear a case, including but not limited to instances in which: (1) the judge is personally biased or prejudiced for or against a party or attorney."

MCR 2.003(C) provides:

> (1) *Time for Filing*. To avoid delaying trial and inconveniencing the witnesses, a motion to disqualify must be filed within 14 days after the moving party discovers the ground for disqualification. If the discovery is made within 14 days of the trial date, the motion must be made forthwith. If a motion is not timely filed, untimeliness, including delay in waiving jury trial, is a factor in deciding whether the motion should be granted.
> (2) *All Grounds to Be Included; Affidavit.* In any motion under this rule, the moving party must include all grounds for disqualification that are known at the time the motion is filed. An affidavit must accompany the motion.

Here, respondent's assertions concerning the trial court reveal that the complained-of actions occurred as early as when the children were initially removed from respondent's care in October 2006, and as late as when the trial court denied respondent's request for the withdrawal of counsel and appointment of substitute counsel on June 5 and 11, 2008. Respondent did not file her motion for disqualification, however, until July 7, 2008—more than fourteen days after she discovered the alleged grounds for disqualification and decidedly not "forthwith." Moreover, respondent's motion contains no affidavit, as required by MCR 2.003(C)(2). Because of the above, we could resolve this issue procedurally and find that plaintiff's claim of judicial disqualification, being non-conforming and untimely, has been waived. Nevertheless, we will briefly consider the merits of respondent's claim of bias premised upon MCR 2.003(C)(2).

A trial judge is presumed to be impartial and the party who asserts partiality has a heavy burden of overcoming the presumption. *Cain, supra; In re Susser Est,* 254 Mich App 232, 237; 657 NW2d 147 (2002). A showing of personal prejudice usually requires that the source of the bias be in events or information from outside the judicial proceeding. *Cain, supra* at 495-496. MCR 2.003(B)(1) requires a showing of *actual* bias. Absent actual bias or prejudice, a judge will not be disqualified pursuant to MCR 2.003. *Cain, supra,* at 495.

Respondent asserts that several of the trial court's actions demonstrate her actual bias against respondent. First, respondent directs us to the trial court's comment at a December permanency planning hearing that "but for the recommendations of DHS, I would have thought that this case would go to termination because of your lack of accountability." Respondent asserts that this remark makes it clear that, despite the positive testimony that was provided at the hearing, the trial court had already made up her mind that respondent's parental rights would be terminated. However, the above statement was made in the context of respondent's failure to understand that she caused many of the problems the children were suffering and that she needed to be accountable for their issues. The trial court was simply expressing her displeasure with

respondent's failure to grasp how her actions could have caused the children harm. Judicial remarks that are critical or disapproving of a party ordinarily do not support a bias or partiality challenge. *Cain v Michigan Dept of Corrections, supra,* at 497. "[E]xpressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women ... sometimes display" do not establish bias or partiality. *Id.* at n 30. Moreover, the trial court did not proceed with termination at the time the statement was made. Noting that this was a hard case, the trial court ordered that reunification attempts continue.

Respondent also asserts that the trial court demonstrated actual bias during a hearing at which respondent was attempting to show that operating an exotic dancing business out of the family's home was an acceptable way to earn a living. The trial court reacted with surprise and it commented that the business set a bad example for the eldest daughter and that it was indicative of respondent's lack of accountability. The trial court ordered that the business stop.

The record reflects, however, that respondent's eldest daughter had been a victim of sexual abuse at a young age and that two of her other children exhibited sexually inappropriate behavior. Given that three of the children displayed sexual issues, conducting an exotic dancing business from the home where they would be living was a legitimate matter of concern. The trial court's comments reflected proper consideration of a factor that could affect the children and could have an impact on their existing issues. The opinions expressed by the trial court on this issue were based on evidence and do not demonstrate actual bias against respondent.

Respondent next cites to an instance where the trial court, during the actual trial, indicated she needed to have the exhibits marked carefully for appellate review. Respondent contends that this comment establishes that the trial court knew, before the presentation of evidence had concluded, the outcome of the trial. We do not agree that the statement demonstrates a preconceived notion of the outcome of the trial. Appeals of cases are commonplace and preservation of a clear record is a duty of the trial court in any proceeding. Respondent has failed to establish that a single errant comment concerning a potential appeal demonstrates actual bias by the trial court.

The remainder of respondent's complaints about the trial court concern judicial findings and how the case was handled. However, a judge's rulings against a party, even if repeated and vigorously expressed, do not warrant disqualification. *Wayne Co Prosecutor v Parole Bd,* 210 Mich App 148, 155; 532 NW2d 899 (1995).

As indicated above, we find no demonstration of actual bias as set forth under MCR 2.003(C). This does not end our inquiry, however, because, as respondent points out, "where the requirement of showing actual bias or prejudice under MCR 2.003(B)(1) has not been met, a party may pursue disqualification pursuant to the Due Process Clause, which requires an unbiased and impartial decision maker. *Cain, supra* at 497. In *Cain,* our Supreme Court noted that the United States Supreme Court has identified situations "where 'experience teaches that the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable' ", and disqualification is warranted without a demonstration of actual bias. *Id.* at 498, quoting *Crampton v Dep't of State,* 395 Mich 347, 351; 235 NW2d 352 (1975). *Crampton* provides, as an example, where the judge has been the target of personal abuse or criticism by a party.

Here, respondent asserts that her activity in family reunification organizations and the placement of public signs attacking the trial court and DHS support extrajudicial bias and the appearance of impropriety in the trial court continuing to preside over the case. Again, we disagree.

The trial court, in ruling on respondent's motion to disqualify the trial judge, acknowledged that there were signs placed in the community regarding impeachment of the trial judge and indicating that the DHS steals children, noting that "those things happen." The trial court continued the trial, showing the same courtesy to respondent and to her counsel that it had throughout the prior proceedings. There is nothing in the record to establish that the trial court took any prejudicial action against respondent as a result of the signs or treated her unfairly. Were we to find that disqualification was appropriate based solely on the placement of critical signs, any litigant unhappy with a presiding judge could judge-shop simply by criticizing the judge or even filing frivolous grievances. Respondent has failed to demonstrate that the trial court was actually biased against her under MCR 2.003 or that there was such a high probability of bias that she was deprived her of due process.

Respondent next contends that there were insufficient proofs to establish by clear and convincing evidence that her parental rights should be terminated, and that her complete compliance with the case service plan negated any statutory basis for termination. We disagree.

The trial court may terminate a parent's parental rights to a child if the court finds that the petitioner has proven one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights " MCL 712A.19b(5); see also *Trejo, supra* at 350. We review a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous when we are left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

We first note that a party's compliance with the case service plan is merely *evidence* of the party's ability to provide proper care and custody of the children. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Compliance is not unquestionably decisive of the issue. Moreover, benefiting from the services is "an inherent and necessary part of compliance with the case service plan." *Id.* The record here establishes that while respondent fully complied with the services required of her, she did not benefit from the services she received. The record further reflects that clear and convincing evidence supported the termination of respondent's parental rights under MCL 712A.19b(3)(c), (g), and (j).

Again, this was not respondent's first contact with CPS. CPS received 21 complaints concerning respondent's children over the years, with seven prior substantiated complaints. It was noted in a 2002 initial service plan in another county that respondent had an extensive protective services history in both Berrien and Calhoun County. The accompanying report indicated that respondent had provided poor supervision to her children, that medical professionals were concerned about missed medical appointments with her special needs children, that she had a history of domestic violence, and that she had made poor choices in choosing significant others. An assessment of respondent at that time indicated that she

continued to blame others for her situation. The assessment indicated that respondent's primary needs were emotional stability, parenting skills, and domestic relationships. Respondent was provided services in 2002 to address her emotional instability and coping skills, including counseling, psychological and psychiatric evaluations, domestic violence classes, and parenting classes.

Despite the plethora of services respondent had received, she again became involved with CPS in 2006, in the instant matter. The children came under the jurisdiction of the Cass County Court for several reasons, some of them similar to the prior CPS involvements--and not just due to exposure to domestic violence as respondent appears to believe. In addition to the allegations of domestic violence, the petition contained allegations of neglect, exposure to criminality, and that the children all struggled both academically and with their behavior. In fact, evaluations performed on the children shortly before their removal revealed that they all suffered significant emotional and behavioral issues ranging from various degrees of anger and aggression to attachment issues and a lack of coping skills. At least one of the children had significant medical issues (cerebral palsy) and one had ADHD and psychological and emotional issues so severe he was eventually placed in a residential treatment center.

The primary caseworker testified that respondent needed to understand her children's needs and what responsibility she played in their current issues. Clearly, then, the primary focuses were on respondent's stability and accountability. To that end, respondent received a multitude of services, including individual therapy, joint therapy sessions with several of her children, hands-on parenting training, parenting classes, and domestic violence classes. The record is replete, however, with evidence that respondent derived no more benefit from the services she received this time than she had in the past.

A psychological evaluation from December 2006, resulted in a diagnosis of respondent as having a personality disorder. The evaluating psychologist opined that respondent tended to minimize and disregard problems, did not accurately report her children's issues, had strong dependency issues, and was more oriented toward gratifying her own needs. A re-evaluation performed in February 2008 revealed the same diagnosis, with the psychologist opining that, because the evaluations were consistent, respondent had made little progress.

At the termination trial, respondent's parenting trainer acknowledged that respondent made progress during certain periods throughout the pendency of this matter, but that her progress was inconsistent. As an example of respondent's continued failure to empathize with her children and her failure to put their needs first, the trainer noted that respondent moved to Indiana to live with her boyfriend in January 2008, despite being advised that traumatized children such as hers had a difficult time with transition and change and being told that the move would put previously unsupervised visits with respondent's eldest daughter on hold.

The psychologist who initially assessed the children, Ms. Pond, indicated that she spoke to respondent after the children's assessments and that respondent minimized their behaviors and stated that the children's poor behaviors were because of her ex-husband. According to Ms. Pond, respondent took minimal responsibility for their issues, but indicated that she could not help it, because she was a victim herself. Of concern, despite the obviousness and severity of the children's issues, respondent indicated that she was largely unaware of any concerns for the children until the assessments were performed. Ms. Pond, after observing many of respondent's

visits with the children, noted respondent did not seem attuned to the children's needs as late as her April 2008 visit.

Respondent's first individual therapist also indicated that respondent initially projected blame and focused mostly on her own emotional issues rather than on the childrens. The therapist indicated that while respondent did have periods where she appeared to be making progress, her progress had declined in the months preceding the trial.

Respondent did complete all of her parenting classes. However, her parenting class instructor's final summary provided:

> Overall, Laura made satisfactory progress in her participation. In the last half of the class series, she became increasingly more active in the discussions and was more willing to share. It appeared as if she made a genuine effort to be attentive and to learn, but it is questionable if what she learned in each class carried over into her interactions with her children. Laura will need ongoing, hands-on coaching as she attempts to improve her parenting skills.

The testimony and reports of the DHS caseworker and nearly all of the therapists involved in this case indicate that respondent did not benefit from services. The primary exception was the testimony of the individual therapist hired by respondent, Dr. Monroe, who provided treatment to respondent from approximately July 2007 to the time of trial in June 2008. According to Dr. Monroe, a psychological evaluation she performed on respondent revealed no personality disorder, and respondent made significant progress in accountability and empathy for the children during their treatment. The trial court discounted this testimony, however, finding it not credible. We defer to the trial court's special opportunity to judge the weight of the evidence and the credibility of the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Perhaps the most compelling testimony in this matter, that which sheds the most light on whether respondent benefitted from services, is that of respondent herself. When asked what responsibility she accepts for her children's problems, respondent testified that she accepts responsibility for being married to Claudell Smith, Sr. Respondent specifically testified that she did not believe she did anything that would cause her children to be in foster care. Respondent failed to acknowledge any part in the children's removal, including the allegations of neglect and abuse of the children and allegations that she, too, was a perpetrator of domestic violence. For example, Anna reported to her therapist that respondent had held her head underwater as a punishment and reported to her teacher other instances of abuse at respondent's hands. One of the referrals received by CPS in August 2006, in fact, was relative to Anna having a black eye "possibly by respondent." A second referral, in October 2006, was due to police involvement at respondent's home on a complaint that she had assaulted Claudell Smith, Sr.

While there were periods where respondent made progress, mixed in with the progress were many, many, inappropriate actions that reflect respondent's disregard for propriety and her children's best interests. We agree with the trial court that while Dr. Monroe may have found that respondent made progress, her actions throughout these proceedings and, indeed, her testimony at trial, clearly demonstrate that respondent still projects blame, and refuses to accept

responsibility for any of her actions that contributed to the children's removal. These are the same issues she faced in prior CPS involvements and they obviously remain unresolved.

Consistency remains a significant issue with respondent, despite her years of receiving services. While respondent complied with the case service plan in that she physically did what was asked of her, she did not sufficiently benefit from the services offered to enable the court to find that she could provide a home for her children in which they would no longer be at risk of harm. The conditions that led to the adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's age, such that termination was appropriate pursuant to MCL 712A.19b(3)(c)(i).

Although only one basis for termination need be established, termination was also appropriate under MCL 712A.19b (g) and (j). Although consistently described as bright, respondent did not acknowledge the extent of her children's needs until after assessments, despite the fact that behavioral and emotional issues were readily apparent. She minimized the children's issues and failed to obtain services for them on her own. It took court intervention for them to obtain the counseling and medications that they required. She also exposed the children to domestic violence (again, respondent was also accused of being violent—not just Claudell Smith, Sr. as she insists) and criminality (respondent was charged with armed robbery), and demonstrated a long and involved history with CPS and a history of being involved with violent and criminal men. Respondent failed to provide proper care or custody for the children and, given her lack of progress concerning responsibility, there is no reasonable expectation that she will be able to provide proper care and custody within a reasonable time, considering the children's ages. Taking into account these facts as well as the children's overwhelming special needs, there is a reasonable likelihood, based on the conduct or capacity of respondent, that the children would be harmed if returned to respondent.

Respondent's last argument on appeal is that she was denied due process where, despite the fact that she was a victim of physical abuse, the trial court failed to recognize her as a battered woman and failed to ensure proper treatment.

It is not completely clear what error respondent is alleging with respect to battered women's syndrome. Respondent appears to argue that the syndrome was not adequately addressed in this matter and that she was not provided with specific services for treatment of battered women's syndrome. However, respondent was never diagnosed as a battered woman by anyone in this case. Instead, she was diagnosed with a personality disorder by at least one expert and with post-traumatic stress syndrome by Dr. Monroe. Despite the lack of diagnosis, respondent was not refused the opportunity to present expert testimony on the issue of battered women's syndrome; she never requested the admission of such testimony or attempted to present it.

Moreover, respondent made it abundantly clear to everyone involved in these proceedings that she was a victim of domestic violence, by not one, but all of her children's four fathers. One of the service providers' concerns was, in fact, that respondent had a difficult time taking the focus off herself as a victim to adequately address the harm her children had suffered and their personal issues. Respondent was provided with individual therapy and domestic violence classes and Dr. Monroe testified that one of the focuses in therapy was to assist respondent in resolving her past issues. Respondent has not identified any specific treatment or

services she should have received, but did not. Respondent's argument thus fails. A party may not announce a position and then leave it to this Court to search for legal authority or factual support for the assertion. *Wilson v Taylor,* 457 Mich 232, 243; 577 NW2d 100 (1998).

Affirmed.

/s/ Kurtis T. Wilder
/s/ Patrick M. Meter
/s/ Deborah A. Servitto