

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KIA NICKOLE-SHANELLE  
DAVIS and NATALYA ARIEL DELGADILLO,  
Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RANDI MADDIX,

Respondent-Appellant.

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UNPUBLISHED

July 30, 2009

No. 289679

Oakland Circuit Court

Family Division

LC No. 08-749214-NA

Before: Owens, P.J., and Servitto and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from circuit court orders terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(iii)-(v). We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

Respondent submits that the circuit court erred in denying her motion to adjourn the dispositional hearing until the criminal case against her had resolved. We review the circuit court's adjournment ruling for an abuse of discretion, *Soumis v Soumis*, 218 Mich App 27, 32; 553 NW2d 619 (1996), which "occurs when the decision results in an outcome falling outside the principled range of outcomes." *Woodard v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006).

In a child protective proceeding, a motion to adjourn must identify good cause, and the court's ruling should take into account the best interests of the child. MCR 3.923(G)(1), (2). The court rules applicable to other types of proceedings specify that the unavailability of a witness or evidence may amount to good cause, but "only if the court finds that the evidence is material and that diligent efforts have been made to produce the witness or evidence." MCR 2.503(C)(1), (2). Respondent appears to contend that the circuit court should have delayed the dispositional hearing because she could not testify in this case until her criminal proceedings had resolved. However, unlike a criminal defendant who possesses a constitutional right to refuse to testify, the privilege against compulsory self-incrimination does not entitle a party "to refuse to give any testimony in a civil action"; a party in a civil action may invoke the constitutional privilege only in the face of a potentially incriminating question. *Larrabee v Sachs*, 201 Mich

App 107, 110; 506 NW2d 2 (1993); *People v Guy*, 121 Mich App 592, 612-613; 329 NW2d 435 (1982). By virtue of respondent's no contest plea to the allegations in the permanent custody petition, she conceded that clear and convincing evidence supported termination of her parental rights under multiple statutory grounds, leaving the only remaining issue whether termination served the children's best interests. Respondent appeared at the dispositional hearing and could have chosen to testify with respect to the best interests issue without incriminating herself. Furthermore, her right against self-incrimination did not prevent her from calling other witnesses or from presenting documentary evidence relating to the children's best interests. Consequently, the circuit court did not abuse its discretion in denying the request for adjournment.

Respondent also asserts that the circuit court erred in finding that termination of her parental rights furthered the children's best interests. MCL 712A.19b(5). We review the circuit court's decision for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent physically abused her oldest child and neglected to seek prompt medical attention. Respondent's conduct inflicted severe brain damage from which the child may never recover. According to Julie Kwon, the psychologist who examined respondent, respondent's abusive actions occurred because of her poor judgment and lack of impulse control, which caused her to lash out at her child in frustration instead of stepping back and seeking assistance. Kwon testified that even if petitioner provided respondent services, the nature of her limitations signified that any potential improvement "would be very minimal and it would take a very long time." In the meantime, the children had a strong need for permanency and a responsible parent who would attend to their needs. Respondent could not provide proper care at the time of the dispositional hearing, and the evidence established a high unlikelihood that she ever might have the capacity to provide proper care. Kwon opined that termination would not harm the children and would advance their best interests. We conclude that the circuit court did not clearly err in finding that termination of respondent's parental rights served the children's best interests.

Affirmed.

/s/ Donald S. Owens  
/s/ Deborah A. Servitto  
/s/ Elizabeth L. Gleicher