

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of OWEN NERDIG, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KRISTI ANN NERDIG,

Respondent-Appellant.

UNPUBLISHED
September 3, 2009

No. 289993
Berrien Circuit Court
Family Division
LC No. 2006-000053-NA

Before: Saad, C.J., and Whitbeck and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right from the January 7, 2009, order terminating her parental rights to the minor child, born March 17, 2005, pursuant to MCL 712A.19b(3)(c)(i) (the conditions that led to adjudication continue to exist) and (g) (failure to provide proper care and custody). Respondent appeals as of right the order terminating her parental rights. We affirm.

On May 4, 2006, the Berrien County DHS filed a petition alleging that the minor child was taken into custody after police took respondent to the hospital because she made a suicide threat during an argument with her boyfriend. The petition further alleged that respondent admitted to a past history of depression and stealing, that she was unemployed and homeless, and that she had recently left the minor child at home, alone, without supervision. Respondent consented to the petition and the placement of her child in foster care. Respondent was granted supervised visitation.

On July 10, 2006, respondent entered a no contest plea and the court assumed jurisdiction over the child. The court ordered respondent to comply with her treatment plan. At that time, respondent was involved in counseling, parenting classes, and was looking for housing and employment.

At a combined review and permanency planning hearing conducted on March 3, 2008, the court was informed that respondent had completed various classes and was enthusiastic, cooperative, and intelligent. However, the court was also informed that respondent had not visited her child since December 2007, and that respondent had been arrested for shoplifting in January 2008. Respondent remained unemployed and had failed to obtain stable housing. The court directed petitioner to initiate proceedings to terminate respondent's parental rights. On

April 29, 2008, a petition was filed requesting termination of respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g).

A termination hearing was conducted on June 23, 2008. On January 5, 2009, the court issued an order terminating respondent's parental rights. The court concluded that termination was warranted under subsections (3)(c)(i) and (g) because respondent had no permanent housing or employment, and that termination was in the child's best interest. This appeal followed.

This Court reviews for clear error the trial court's findings that a ground for termination has been established. MCR 3.977(J); *In re Rood*, 483 Mich 73, 90-91 (Corrigan, J.); 126 n 1 (Young, J.); 763 NW2d 587 (2009). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). To be clearly erroneous, a decision must be more than maybe or probably wrong. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

The trial court did not clearly err in finding that the statutory grounds for termination had been established by clear and convincing evidence. *In re JK, supra*; *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The court assumed jurisdiction over the child in July 2006, because of respondent's lack of housing, lack of employment, and her unstable emotional and mental health that caused her to neglect the child. Respondent never obtained appropriate housing during the pendency of the case and was living at a temporary housing establishment at the time of the termination hearing in January 2009. Respondent had not been employed since October 2007, and had no other source of income. In addition, she was only sporadically attended her counseling appointments to address her mental health issues. The child had been in foster care for more than two years, had many special needs, and considering respondent's lack of progress during this time, there was not a reasonable expectation that she would be in a position to provide proper care and custody within a reasonable time considering the child's age.

Affirmed.

/s/ Henry William Saad
/s/ William C. Whitbeck
/s/ Brian K. Zahra