

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LORENZ VALENTINO LEEK,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA LEEK,

Respondent-Appellant.

UNPUBLISHED

January 5, 2010

No. 290937

Ingham Circuit Court

Family Division

LC No. 06-001028-NA

Before: Gleicher, P.J., and Fitzgerald and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right the circuit court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

This child protective proceeding commenced in May 2006, when the Department of Human Services (DHS) filed a petition seeking temporary custody of the minor, who was then about six months of age. The petition alleged that (1) the child's father, who had two past domestic violence convictions and an aggravated assault conviction, faced a more recent charge that he had engaged in domestic violence against respondent,¹ (2) in early May 2006, respondent left the father a voice mail in which she expressed that "she was 'holding a knife to the baby's chest right now' and 'I'm going to kill the nigger,'" (3) when the police stopped respondent's car on the same evening, they "found an eight-inch butcher knife and a five-inch fillet knife in the car seat with" the child, and (4) respondent suffered from untreated "mental and emotional issues," which had caused her to "mak[e] inappropriate decisions which place [the child] at risk of harm and constitute neglect." The circuit court exercised jurisdiction over the child on the basis of respondent's admission to the allegation that she had untreated emotional and mental

¹ The petition additionally asserted that although the father had no illegal substance convictions, the Lansing Police Department knew the father "as a substance abuser."

conditions, specifically attention deficit disorder (ADD), agoraphobia, social anxiety, chronic panic disorder, and moderate to severe depression, that interfered with her ability to care for the child.

Between the June 2006 adjudication and January 2008, respondent made commendable progress toward satisfying the components of her treatment plan. She completed parenting classes, a psychological evaluation, a period of substance abuse screenings, individual therapy, and family therapy. She also located suitable housing and part-time employment and commenced anger management counseling. Although the DHS recommended placing the child in respondent's custody by mid-2007, a condition of respondent's probation in a district court criminal matter relating to her threats against the child prevented her from having unsupervised visitation with the child. The district court removed the unsupervised contact prohibition in January 2008, and the child returned to the custody of respondent, who received assistance from in-home service providers.

In January 2009, however, the DHS filed a supplemental petition requesting the termination of respondent's parental rights pursuant to MCL 712A.19b(3)(g) and (j). According to the supplemental petition, the DHS had again removed the child from respondent's custody in September 2008 because (1) on August 18, 2008, respondent neglected to attend a psychiatric appointment and "denied entrance into the home to [an] Intensive Neglect Services Worker," (2) nearly a week later, the Lansing Police Department arrested respondent "for resisting and obstruction of justice due to failing to cooperate and interfering with" the police "attempt to apprehend . . . [the father] who was in her home," (3) the father, whose parental rights to the minor the court had terminated in August 2007, reportedly "had been visiting [respondent's] home . . . regularly for the past month," (4) on September 3, 2008, a neighbor called the police to report "hearing screams and fighting," (5) the next day, respondent acknowledged "she has had contact with" the father, "which is in violation of court orders," (6) respondent could not meet the child's "basic needs (shelter) . . . due to losing her only source of income, a cash grant from DHS, until December 2008," (7) respondent had ceased taking her prescribed medication for depression, and (8) respondent "was arrested on October 16, 2008 for violation of probation and false identification," and she had a May 21, 2009 jail release date. After a termination hearing, the circuit court in March 2009 terminated respondent's parental rights.

Respondent now challenges the circuit court's termination ruling. The petitioner bears the burden of proving a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination is established by clear and convincing evidence, the circuit court must order termination if "termination of parental rights is in the child's best interests." MCL 712A.19b(5). We review for clear error a circuit court's findings of fact. MCR 3.977(J); *In re Trejo*, 462 Mich at 356-357. "A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (internal quotation omitted).

After reviewing the record, we find clear and convincing evidence supporting the circuit court's invocation of MCL 712A.19b(3)(g) as a ground warranting termination of respondent's parental rights. Subsection (g) authorizes termination when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation

that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." The record amply establishes that respondent participated in many services, but did not ultimately benefit measurably from them. Despite a prolonged period of assistance from in-home service providers, respondent could not with regularity manage her child's aggressive behaviors. Additionally, respondent conceded that she repeatedly violated court orders prohibiting contact with the child's father, thus continuing a volatile relationship with the father and giving rise to a dangerous and unhealthy environment for the child. Respondent also undisputedly failed to avail herself of proffered assistance that would have maintained the medication prescribed to treat her severe depression and social anxiety. In light of respondent's lack of demonstrable parenting improvement, notwithstanding her participation in many programs and services over the course of the 2-1/2 years the child protective proceedings endured, the record also clearly and convincingly substantiated that no reasonable expectation existed that she might properly parent the child within a reasonable time.²

Furthermore, we detect no clear error in the circuit court's finding that termination of respondent's parental rights served the child's best interests. MCL 712A.19b(5). Although respondent and the child undeniably shared a bond, the child had resided in foster care for majority of his young life and had strong needs for stability, safety, and permanency to facilitate his growth and development.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ E. Thomas Fitzgerald
/s/ Kurtis T. Wilder

² Considering respondent's continued willingness to expose the child to domestic violence, her ongoing association with the child's father in violation of no contact orders, and the evidence of her inability to consistently maintain treatment for her mental illness, the record also clearly and convincingly supports the circuit court's reliance on MCL 712A.19b(3)(j) ("There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."). To the extent that the circuit court relied on MCL 712A.19b(3)(c)(i), we decline to consider this ground, which the DHS did not identify in the January 2009 permanent custody petition.