

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of I. J., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JUANITA JOHNSON,

Respondent-Appellant.

UNPUBLISHED

May 18, 2010

No. 295198

Ingham Circuit Court

Family Division

LC No. 09-000155-RL

Before: SHAPIRO, P.J., and JANSEN and DONOFRIO, JJ.

PER CURIAM

Respondent appeals as of right from a circuit court order denying her motion to revoke a release pursuant to MCL 710.29(10) and MCL 710.64(1). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The child was apparently the subject of a child protection proceeding under the Juvenile Code, MCL 712A.2(b), and a petition for involuntary termination of her parental rights either had been or was about to be filed. Respondent executed a release of her parental rights under the Adoption Code, MCL 710.29(1), and the court terminated her parental rights. MCL 710.29(7). Respondent then sought to revoke the release. The trial court determined that the release was knowingly and voluntarily made and denied the motion.

We review the trial court's ruling for an abuse of discretion. *In re Burns*, 236 Mich App 291, 293; 599 NW2d 783 (1999); *In re Blankenship*, 165 Mich App 706, 712; 418 NW2d 919 (1988). A trial court abuses its discretion when its decision results in an outcome falling outside the range of reasonable and principled outcomes. *In Re MKK*, 286 Mich App 546, 564; ___ NW2d ___ (2009).

A release "is valid if executed in accordance with the law at the time of execution." MCR 3.801(B). The release must be executed by the parent before a judge of the court or a referee. MCL 710.28(1)(a); MCL 710.29(1). The parent must also execute a verified statement containing certain information prescribed by statute. MCL 710.29(5). However, the release may not be executed "until after the investigation the court considers proper and until after the judge" fully explains to the parent her legal rights and the fact that those rights will be relinquished permanently. MCL 710.29(6).

“The court may grant a rehearing only for good cause.” MCR 3.806(B). Good cause is generally considered to be a legally sufficient or substantial reason. *In re Utrera*, 281 Mich App 1, 11; 761 NW2d 253 (2008). The respondent’s change of heart alone is not grounds to set aside a release that is otherwise knowingly and voluntarily made after proper advice of rights is given by the court. *In re Burns*, 236 Mich App at 292-293; *In re Curran*, 196 Mich App 380, 385; 493 NW2d 454 (1992); *DeBoer v Child & Family Services of Michigan, Inc*, 76 Mich App 641, 645; 257 NW2d 200 (1977).

It is undisputed that the trial court properly advised respondent of her rights at the time she executed the release. Thus, the release was knowingly executed. The record shows that respondent executed a verified statement that contained the requisite information and that respondent waived her right to counseling. A review of the transcript also shows that respondent acknowledged on the record that she did not have to execute the release if she did not want to, that the release was not induced by any threats or promises, and that, “after everything that we talked about,” she still wanted to release her parental rights. Thus, the release was also voluntarily executed. Although respondent claimed that she was scared and “wasn’t thinking straight,” she advised the court that she understood her rights, and she otherwise answered questions appropriately and, thus, there is nothing in the record to show that her ability to make an informed and voluntary decision was impaired. The fact that respondent was facing involuntary termination under the Juvenile Code does not make the decision any less voluntary where, as here, respondent was advised that “you do not have to release your parental rights, which means that if you decided right now to get up and walk out and say, no, Judge, I don’t want to do this, that I couldn’t make you release or give up your parental rights against your will[.]” Further, it was not yet known whether the petition for permanent custody would be granted. If respondent believed that she could not obtain a fair hearing on the permanent custody petition because the judge was biased against her, she was free to file a motion to disqualify the judge. MCR 2.003(A) and (B)(1). In short, the record shows that respondent simply changed her mind, having decided after executing the release that she was capable of raising her child and wanted an opportunity to do so. Because respondent did not show good cause for revoking the release, the trial court did not abuse its discretion in denying her motion. *In re Burns*, 236 Mich App at 292-293.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Kathleen Jansen
/s/ Pat M. Donofrio