

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

June 17, 2010

In the Matter of In the Matter of J.S. KELLOGG-
LIGON, Minor.

No. 294793
Kent Circuit Court
Family Division
LC No. 08-052256-NA

Before: ZAHRA, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (l) and (m). We affirm.

Respondent does not argue lack of sufficient evidence to support the statutory grounds for termination, but contests only the trial court's finding that termination of parental rights was in the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.* at 355-357.

Respondent had suffered more than ten years from schizoaffective disorder and borderline personality disorder, which at times was diagnosed as schizophrenia and bipolar disorder. In 2004 her parental rights to two children were terminated in Illinois after she executed voluntary releases following four years of unsuccessful rehabilitation efforts in an involuntary child protective proceeding. In this case, respondent argues on appeal that she loved the minor child, was appropriate at visits, immediately and consistently complied with her parent agency agreement and took prescribed medication, and made progress in addressing her mental health and anger issues. In light of her compliance, determination and progress, she argues the trial court erred in finding it in the child's best interests to terminate her parental rights, and erred in basing termination in part on speculation that another family would adopt and raise the child more appropriately.

In its opinion, the trial court did not reference the minor child's possible adoption, or compare respondent's home to a prospective adoptive home. There is no evidence to support respondent's contention that the trial court based its decision to terminate parental rights upon speculation that another family might adopt the minor child and raise her more appropriately, although consideration of whether a suitable alternative home was available would have been permissible in making a best interests determination. *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009); *In re Mathers*, 371 Mich 516, 530-532; 124 NW2d 878 (1963).

More importantly, the evidence showed respondent's mental health condition was long-standing, permanent, and necessitated intense, long-term monitoring by a psychiatrist and mental health caseworker. Manifestations included significant depression, angry verbal and physical outbursts, paranoia, and lack of desire to engage with others in the community or consistently care for her child. Respondent acknowledged her condition, sought treatment, counseled fairly regularly, took medication, completed two different parenting programs, and maintained suitable housing for nine months, but continued to struggle with controlling outbursts and did not significantly improve her parenting skills. The evidence showed her emotional status at best remained "on thin ice," she did not promote the child's development or education during parenting times, and after more than a year of services the psychologist and caseworkers testified they had serious concerns about the minor child's safety in respondent's care, particularly because parenting was often frustrating and the record evidenced that respondent might not parent if she did not feel like doing so. The child was removed at birth and caseworkers reported she did not form a child-parent bond with respondent.

Sadly, despite respondent's desire to raise her child and efforts toward rehabilitation, the permanent nature of her mental health condition prevented her from doing so safely and effectively within a reasonable time. The trial court did not err in finding it in the minor child's best interests to terminate respondent's parental rights.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald