

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
November 23, 2010

In the Matter of K. H-B., Minor.

No. 298195  
Genesee Circuit Court  
Family Division  
LC No. 08-124797-NA

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Before: OWENS, P.J., and WHITBECK and FORT HOOD, JJ.

PER CURIAM.

Respondent mother appeals as of right from an order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). The child's father voluntarily released his parental rights to the child and is not participating in this appeal. We affirm.

Respondent argues that the trial court erred in terminating her parental rights and that the decision was not in the child's best interests. We disagree and find that the trial court did not clearly err in finding that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

The trial court asserted jurisdiction over the child based on respondent's limited plea regarding the allegations pertaining to her mental health. She was bi-polar and not complying with her medication. There were also allegations regarding prior terminations and domestic violence. The termination petition was held in abeyance, and respondent was offered a treatment plan, including: parenting time, parenting classes, domestic violence classes, an IARC evaluation, a CMH evaluation, and monitoring of housing. Respondent signed a parent/agency agreement (PAA). Eleven months later, a supplemental petition alleged that respondent was not benefiting from the treatment plan.

Respondent failed to attend the termination hearing even though she knew it was taking place. Lutheran Social Services worker Georgia Smith testified that respondent maintained weekly contact with Smith until approximately six weeks before the termination hearing, at which time respondent left Smith a message that she had been in Arkansas. Smith tried calling respondent but could not reach her and did not know whether respondent was back in Flint.

Smith testified that respondent's parental rights to three older children were previously terminated. Another of respondent's children was placed in a guardianship. Although a termination petition for this child was filed, respondent was given an opportunity to comply with

services. Respondent completed parenting classes but was very inconsistent with her parenting time. Smith testified that, “[e]ach reporting period she had at least four parenting times that she missed.” At the time of the termination hearing, she had not seen the child in over two months. She had not called and not shown for any parenting time since that last visit. As a result of the inconsistency, the bond between respondent and the child was “not good.” The child would scream during the visits, causing respondent to become frustrated and walk out. On two occasions respondent told Smith that “she was done” and no longer wanted the child. On one occasion when a transporter brought the child to a visit that respondent failed to attend, the child cried for 45 minutes when returned to the foster home.

Respondent completed an IARC evaluation and no recommendation was made for substance abuse treatment. When an allegation was made that respondent was using cocaine, drug screens were added to the treatment plan. Again, respondent was inconsistent, completing only one of 11 screens during the reporting period before the termination hearing and missing 70 percent of her screens overall. She had one positive screen for morphine and some screens were diluted.

Respondent failed to provide the agency with proof that she had completed domestic violence counseling, even though she was well aware of the importance of completing such counseling under her PAA. Respondent also failed to show consistency regarding her mental health. Although respondent maintained regular contact with her therapist at CMH, she became inconsistent when the counseling was increased to weekly appointments. She was inconsistent in taking her medication. Respondent’s mental health continued to be a major barrier to reunification. Respondent was unable to control her mood swings.

Even assuming that housing and income were not issues in this case, there was clear and convincing evidence to terminate respondent’s parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Her inconsistent compliance with, and lack of benefit from, the PAA formed the basis for termination. Respondent did not have custody of any of her five children. She made little or no progress in this case. The agency had provided every service available for respondent, but she did not appear to benefit from the services that she completed.

Having found statutory grounds for termination of respondent’s parental rights proven by clear and convincing evidence, the trial court then had to determine whether termination of respondent’s parental rights was in the child’s best interests. MCL 712A.19b(5). We find no error in the trial court’s determination. The parent-child bond suffered due to respondent’s inconsistency in visiting with the child. She missed numerous visits, without bothering to call. The child was in a pre-adoptive home and doing very well. She had been out of respondent’s care for over a year and was entitled to permanence and stability.

Affirmed.

/s/ Donald S. Owens  
/s/ William C. Whitbeck  
/s/ Karen M. Fort Hood