S T A T E   O F   M I C H I G A N

C O U R T   O F   A P P E A L S

UNPUBLISHED
August 21, 2012

In the Matter of USHER, Minors.

No. 308168
Macomb Circuit Court
Family Division
LC Nos. 2010-000252-NA
2010-000253-NA
2010-000378-NA

Before: SAAD, P.J., and SAWYER and CAVANAGH, JJ.

PER CURIAM.

Respondent-mother appeals as of right from the orders terminating her parental rights after release or consent to the minor children pursuant to MCL 710.29(7), claiming that her release of parental rights was not voluntary because she was under duress and that it did not comply with the statute. We affirm.

A release of parental rights is valid if executed by the parent before a judge of the court or a referee. MCL 710.28(1)(a); MCL 710.29(1). The release may not be executed until after an investigation the court considers proper and until after the judge or referee fully explains to the parent his or her legal rights and the fact that those rights will be permanently relinquished. MCL 710.29(6); *In re Blankenship,* 165 Mich App 706, 711-712; 418 NW2d 919 (1988). Additionally, if the child is over the age of five the court must find "that the child is best served by the release." MCL 710.29(6). Upon the release by the parent, the court is required to immediately enter an order terminating that parent's rights to the child. MCL 710.29(7). The parent may file a motion to revoke the release or petition for rehearing of the order terminating parental rights, or the parent may appeal the order terminating their parental rights to the Court of Appeals. MCL 710.29(10); MCL 710.64(1); MCR 3.806(A). However, a parent's change of heart alone is not a ground for setting 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 291, 292-293; 599 NW2d 783 (1999); *In re Curran,* 196 Mich App 380, 385; 493 NW2d 454 (1992); *In re Blankenship*, 165 Mich App at 713; *In re DeBoer,* 76 Mich App 641, 645; 257 NW2d 200 (1977).

Respondent-mother first argues that she was rushed and pressured into an extremely important decision on the date of trial and that, although she acknowledged that she had "enough time" to make her decision to voluntarily relinquish her parental rights, no record was

established as to how much time she had to consider such an important life altering decision. However, there is no requirement in the statute that the court determine precisely "how much time" a parent took to consider their decision to release their parental rights. All that is required by statute is an investigation that the court concludes is proper. This investigation is left to the sound discretion of the trial court. *Petition of Gonzalez*, 330 Mich 35, 38; 46 NW2d 453 (1951); *In re Blankenship*, 165 Mich App at 714. Review of the transcript does not suggest any abuse of that discretion by the trial court in its investigation into whether respondent-mother's decision to release her parental rights complied with the statutory requirements.

Next respondent-mother contends that no testimonial evidence exists that she received the list of support groups and written documents as required under MCL 710.29(5). This statutory provision, though, does not require "testimonial evidence" that she received a list of support groups and written documents, rather it requires "a verified statement signed by the parent" that states that she received a list of support groups and other written documents. The lower court record contains such a statement signed by respondent-mother for each child's release. Similarly, respondent-mother argues that she was denied the opportunity to participate in support groups when considering her decision to relinquish parental rights and thus the trial court prevented her from making an informed, well thought out decision. We disagree. There is no statutory requirement that a parent be provided the opportunity to participate in support groups, just that she receive a list of available groups. MCL 710.29(5). Lastly, the testimony and signed documents confirm that respondent-mother counseled with her attorney about the release and that she waived any additional counseling.

Respondent-mother also claims that the trial court clearly erred in finding that it was in the best interests of the children to terminate her parental rights. Parental rights were terminated under MCL 710.29(7) following releases executed by the parents that the court determined complied with the statutory requirements in MCL 710.29(5) and MCL 710.29(6). Only the eldest of the three minor children was over the age of five and therefore of an age to which the determination of whether the child would be best served by the release was required under MCL 710.29(6). The determination that a child over five years of age is best served by accepting the release of parental rights is left to the sound discretion of the trial court. *Petition of Gonzalez*, 330 Mich at 38; *In re Blankenship*, 165 Mich App at 714. Review of the record supports the trial court's determination in this regard. Although respondent-mother had appropriate parenting time with the children, she was not able to overcome her serious drug addiction during the extensive time the children were in foster care. Her reduction of methadone was slow and not in accordance with the trial court's directives. She was still unemployed and did not have her own independent housing. She acknowledged at the release of parental rights hearing that she felt it was in the best interests of the children for her rights to be terminated so they no longer had to agonize in foster care. The record does not support her contention that the eldest child would not be best served by the acceptance of her release of parental rights.

Affirmed.

/s/ Henry William Saad
/s/ David H. Sawyer
/s/ Mark J. Cavanagh