

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 16, 2012

In the Matter of A. T. LEIST, Minor.

No. 308559
St. Clair Circuit Court
Family Division
LC No. 10-000027-NA

Before: GLEICHER, P.J., and OWENS and BOONSTRA, JJ

PER CURIAM.

Respondent A. Leist appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in finding that §§ 19b(3)(c)(i) and (g) were both established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); MCR 3.977(H)(3)(a) and (K). The child became a temporary ward because respondent had a serious substance abuse problem that she had been unable to overcome and she was not always available to care for the child. The initial dispositional order was entered on February 26, 2010, more than 20 months before the supplemental petition was filed in December 2011. In the interim, respondent entered Odyssey House, where she received substance abuse treatment and other services. She transitioned to independent living while participating in outpatient treatment and the child was returned to her care under court supervision. Three months later, respondent used crack cocaine. Respondent attributed the relapse to financial stress even though the treatment program included training on “coping and managing stress.” The trial court continued reunification efforts by allowing respondent to maintain custody of the child while participating in a 30-day inpatient program. Within two weeks of completing that program, respondent used crack cocaine again because, as the trial court found, “she had the opportunity and she took it.” Despite her inability to maintain her sobriety in the community, respondent refused another course of inpatient treatment.

The evidence clearly showed that respondent had had not overcome her substance abuse problem. Given that she had been struggling with substance abuse for five years and was unable to maintain her sobriety after more than a year of inpatient and outpatient treatment, the trial court did not clearly err in finding that respondent’s substance abuse problem was not reasonably likely to be rectified, and that there was no reasonable expectation that respondent would be able to provide proper care and custody, within a reasonable time considering the age of the child.

Contrary to what respondent asserts, petitioner was not required to prove that she would neglect her child for the long-term future as held in *Fritts v Krugh*, 354 Mich 97, 114; 92 NW2d 604 (1958), overruled on other grounds by *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). The decision in *Fritts* predates the enactment of § 19b(3), which now sets forth the criteria for termination of parental rights.

Finally, we also reject respondent's argument that the trial court erred in its evaluation of the child's best interests. MCL 712A.19b(5). The evidence showed that respondent and ATL loved one another and that respondent was a good parent when she was sober. However, she demonstrated that she was unable to maintain her sobriety despite extensive treatment. At the time of the termination hearing, respondent was not involved in treatment despite admitting a need for additional treatment. She did not have a job. She also had been unable to maintain stable housing. She was essentially in the same position she had been in when the case first began. Under the circumstances, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. *In re Trejo*, 462 Mich at 356-357.

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ Donald S. Owens

/s/ Mark T. Boonstra