STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JENNIFER and ALEXANDER FRITZ, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RENEE SHANNON,

Respondent-Appellant

and

DARREN FRITZ

Respondent.

UNPUBLISHED
October 31, 2000

No. 219922
Saginaw Circuit Court
Family Division
LC No. 99-025582 NA

Before: Wilder, P.J., Smolenski and Whitbeck, JJ.

PER CURIAM.

Respondent-appellant Renee Shannon appeals by right from the family court order terminating her parental rights to the minor children under MCL 712A.19b(3) (g), (i) and (l); MSA 27.3178(598.19b)(3)(g), (i) and (l). We affirm.

Respondent first argues that her due process rights were violated when the trial court admitted a certified record under seal from the Bay County Probate Court as evidence of termination of her parental rights to another child in 1995, without first making the records available to her and her attorney. We disagree.

A thorough review of the record reveals that respondent was not denied due process of law by admission of the certified record because she was in fact afforded an opportunity to review the certified record, and place any objections to the evidence on the record, prior to its admission. The prosecution offered the certified record into evidence as a self-authenticating document, but acknowledged that the

record had just been received the morning of trial and that the parties did not have an opportunity to thoroughly review the documents therein. The family court inquired whether respondent's counsel had any objection to admission of the certified record, or had any reason to question its admissibility, to which respondent's counsel replied that she briefly reviewed the record and had "no question" about its admissibility. The family court then received the record, but noted that it would provide copies of the record for both counsel during a recess and return to questioning on the subject at a later time. Subsequently, during a lengthy recess in the proceeding, the family court provided both parties an opportunity to review the documents so that "its contents were not a surprise."

Later in the proceeding, during respondent's testimony, the family court questioned respondent about the termination of her parental rights to her son and the services and programs offered to her during that time. The family court inquired whether respondent had an opportunity to review the certified record with her attorney, to which respondent replied affirmatively. The family court then asked respondent to note any inaccuracies or inconsistencies in the certified record. Respondent testified that, contrary to the information in the certified record, she did attend her son's birthday party and did attend a parent enrichment program through the YWCA. Respondent did not dispute any other information in the record. At the conclusion of proofs, the family court adjourned the matter to allow counsel to thoroughly review the certified record before closing arguments. Again, no objections were raised by respondent to the certified record or the contents therein.

On this record, we find that respondent had a full and fair opportunity to review the certified record under seal and note any objections to admission of the record or request additional time for review, if necessary. Respondent was also provided an opportunity to note any inaccuracies or inconsistencies in the certified record during her testimony and again before closing arguments, prior to the family court's decision. At no time during the trial court proceedings did respondent object to admission of the certified record into evidence or argue that she did not have an adequate opportunity to review the record. A party or her counsel may not waive objection to an issue before the trial court and then raise it as an error before this Court. To hold otherwise would be to allow respondent to harbor error as an appellate parachute. *People v Fetterley*, 229 Mich App 511, 520; 583 NW2d 199 (1998). Accordingly, we find that respondent was not denied due process of law by admission of the certified record. See also *In re Schmeltzer*, 175 Mich App 666, 678; 438 NW2d 866 (1989); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973) (how a parent treats one child is compelling evidence, albeit not conclusive, of how a parent treats other children).

Respondent next argues that termination of her parental rights was improper because even assuming a statutory ground for termination exists, termination was not in the best interests of the children. We disagree.

Once a statutory ground for terminating parental rights has been established, the court *shall* terminate parental rights unless termination is clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); MCR 5.974; *In re Trejo Minors*, 462 Mich 341, 350-354; ___ NW2d ___ (2000). Subsection 19b(5) provides the family court with only limited discretion not to terminate parental rights where a statutory ground for termination has been established. Thus, in the absence of "clear evidence, on the whole record, that termination is not in the child's best interests,"

termination by the family court is mandatory. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo, supra*.

In this case, the record is clear that despite numerous services, offers of assistance and admonitions to respondent to clean her home, respondent repeatedly demonstrated an unwillingness to provide a safe and healthy environment for her children to reside. Rather than accepting responsibility for her children's needs, she offered a variety of excuses for not maintaining her home and tried to shift the blame to others for the condition of her home. Further, respondent admitted that she knew how to pick clothes up off the floor, wash dishes, clean the sink, put trash in a bag and take it outside, and did not need to be taught these basic housekeeping tasks, yet she continuously neglected to perform any of these chores. Under these circumstances, the trial court appropriately refused to further delay permanency in these children's lives while respondent decided whether to obtain and maintain suitable housing. Accordingly, we conclude that the family court did not clearly err in finding that termination of appellant's parental rights was in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Affirmed.

/s/ Kurtis T. Wilder
/s/ Michael R. Smolenski
/s/ William C. Whitbeck