STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DALLAS MICHAEL-DWIGHT PIEPLOW, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHELBI ROSE,

Respondent-Appellant.

UNPUBLISHED
January 10, 2008

No. 278428
Lenawee Circuit Court
Family Division
LC No. 04-000342-NA

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights under MCL 712A.19b(3)(i) and (j).[1] We affirm.

I. FACTS

On May 14, 2007, respondent had her parental rights terminated as to Dallas Pieplow. Respondent is the mother of five children. One child, whose name was not given, was living with her paternal grandparents. The four others were Michaela Pieplow, Mia Rose, Alesha Pieplow, and Dallas. In April 2004, Children's Protective Services got involved with the family. Respondent failed to benefit from the services and Michaela and Mia were removed from the home. Eventually, respondent's parental rights to Michaela, Mia, and Alesha were terminated.

In the 2004 proceedings, Thomas Muldary, a psychologist, conducted a psychological evaluation of respondent. His report stated that respondent "came across as surly, peevish, and resentful." She claimed not to remember basic information about herself and her involvement

[1] The trial court erred to the extent that it also relied on MCL 722.638. That statute imposes an obligation on petitioner to file a petition for court intervention and to request termination at the initial dispositional hearing under certain circumstances. Termination itself is governed by MCL 712A.19b. Nevertheless, this Court will not reverse where the trial court reaches the right result for the wrong reason. *Netter v Bowman*, 272 Mich App 289, 308; 725 NW2d 353 (2006).

with the court and thus "considerable basic background information was not obtained." She did not know why the children had been removed from her care. She stated that she and Michael Pieplow, putative father of the Pieplow children, had been "falsely accused of hitting the children and not feeding them and that the children have some kind of developmental problems" and suggested that others had made up "false allegations" out of jealousy. She denied the children had any deficits that they would not grow out of, and she denied the need for counseling or parenting classes. Also, Muldary's report stated that respondent had an IQ of 64 and her verbal and cognitive abilities were severely limited.

In 2005, Muldary testified that he was asked to do a follow-up evaluation of respondent in October 2005. He explained that respondent was "uncooperative, and, refused to submit to the evaluation." Muldary stated that "I did not feel that her behavior in October of 2005 reflected any substantial change in her attitude, her personality, … and, certainly her cognitive abilities were not going to change within that period of time, and probably, not even over the long-term." Muldary opined that it was unlikely that respondent would ever improve.

Jeanette Henagan, a CPS worker, testified that she filed a police report after respondent had threatened her "when she tried to go and make contact and check up on Dallas." She also noted that when she returned several days later, respondent had taken Dallas to her mother's home in Adrian in order to avoid Henagan. Henagan described respondent as uncooperative and did not foresee any significant change.

Sue Nelson, the foster care worker assigned to respondent's other children, testified that respondent had made only minimal progress in the service programs and "by the end of the case, the last couple of months, she dropped out of service." Nelson characterized respondent as uncooperative, hostile, angry, and at times, aggressive.

Respondent testified that none of her children were ever abused or neglected. She explained that she would sell her furniture to support Dallas because she loved him so much. She also stated that she did not need any services because she was a wonderful parent and knew how to raise her children. Also, respondent's father, mother, stepmother, and friend testified that Dallas was a healthy baby and that he and his mother loved one another.

II. STATUTORY GROUNDS FOR TERMINATION

A. Standard of Review

To terminate parental rights, the trial court must find that at least one statutory ground for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). We review the trial court's decision that a statutory ground for termination has been proven by clear and convincing evidence for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision "is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

B. Analysis

The trial court did not clearly err in finding that the statutory ground for termination under MCL 712A.19b(3)(j) was proven by clear and convincing evidence. Under MCL 712A.19b(3)(j), the trial court may terminate parental rights if "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." Here, the child's siblings had become court wards due to neglect in 2004. Respondent was unable to improve her parenting, and her parental rights were terminated in 2006. A psychologist opined that respondent's parenting ability was unlikely to improve. Respondent herself denied that she had any need of assistance to improve her parenting skills and nothing could convince her to accept services toward that end. The evidence clearly showed that the child would be at a substantial risk of harm if returned to respondent's custody.

III. BEST INTERESTS OF THE CHILD

A. Standard of Review

If the trial court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 353. Again, we review the trial court's best interests determination for clear error. *Trejo, supra* at 356-357

B. Analysis

The trial court's finding regarding the child's best interests was not clearly erroneous. There was evidence that respondent loved her son and they had bonded. However, the evidence also showed that respondent was so lacking in parenting ability that her parental rights to Dallas's siblings had been terminated, yet respondent refused to recognize any shortcomings and indicated that she would not participate in rehabilitative services because she did not see a need for them. The love and affection between mother and son did not clearly overwhelm the substantial risk of harm that situation presented to Dallas such that one could conclude that termination was clearly contrary to the child's best interests.

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher