

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of TEYO JAMES, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICIA DALMAN,

Respondent-Appellant,

and

STEVEN JAMES,

Respondent.

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UNPUBLISHED

November 25, 2008

No. 284882

Kent Circuit Court

Family Division

LC No. 07-050382-NA

Before: Hoekstra, P.J., and Whitbeck and Talbot, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). Because we conclude the trial court did not clearly err in terminating respondent's parental rights, we affirm.

A trial court's decision to terminate parental rights is reviewed for clear error. *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). We review for clear error both the court's decision that a ground for termination has been proven by clear and convincing evidence and the court's decision regarding the child's best interest. *Id.* A factual finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

The trial court did not clearly err when it found that the statutory grounds for termination of respondent's parental rights had been met by clear and convincing evidence. The issues that led to adjudication included respondent's volatile relationship with the minor child's father, her arrest and probation, and her substance abuse. After the trial court assumed jurisdiction, respondent was ordered to comply with services, including a psychological evaluation, a

substance abuse evaluation, treatment as recommended by both evaluations, and drug testing, as well as complying with a no-contact order with the child's father until there was progress on the treatment plan. Respondent complied with the requirements to obtain psychological and substance abuse evaluations; however, she did not follow through with what was required of her to address her substance abuse and emotional instability issues and did not seem to understand the consequences of her actions.

Although respondent participated in substance abuse and relapse prevention programs and attended NA/AA meetings on a more than occasional basis, her substance abuse continued throughout most of the proceedings. She periodically tested positive for cocaine, marijuana, and alcohol. Respondent admitted alcohol use but denied using cocaine, claiming that the positive results must have occurred from skin-to-skin contact, kissing, or someone putting cocaine in her cigarette. The trial court did not clearly err in finding that respondent minimized her substance abuse and did not take full ownership or responsibility for her actions, instead projecting blame onto others. Although the trial court gave respondent the benefit of the doubt that there were four months of sobriety based on a negative hair follicle test provided just before the termination trial, the court, based on the significance and longevity of respondent's substance use, the limited progress she made toward sobriety, and her failure to admit using cocaine, rightly required a year of sobriety before considering returning the minor child to respondent.

In addition, the trial court did not clearly err in finding that respondent's behaviors were immature and that she lacked the ability to care for herself, let alone a young child. Respondent continued her contact with the child's father, a relationship that involved her in "criminality, substance abuse, and negativity" according to the trial court, and with friends engaged in substance abuse. During the pendency of this case, and despite a no-contact order, respondent left messages on the father's phone that ranged from wanting to work things out to being threatening and profane. Respondent socialized with individuals who were involved in drugs and alcohol, and she allowed friends to stay in her home who kept drugs and alcohol there. Three months before the termination trial, respondent went with some friends to a club and keyed the car of a girl who had accused respondent of taking her cellular telephone, which resulted in criminal charges and a conviction for malicious destruction of property. Throughout the proceedings, there were numerous instances in which respondent was unable to control her emotions, especially when she did not get what she wanted. For example, when she did not get phone calls from her caseworker returned immediately, she would make repeated calls and demand to be called back immediately. On one occasion, she went to the office and demanded that something be done.

Respondent's argument that she did not have the opportunity to address her issues because the referral for a psychiatric evaluation was delayed for six months is without merit. A psychiatric evaluation generally addresses the need to take medication based on an underlying condition. When respondent did participate in a psychiatric evaluation, the evaluation was based on her self-reporting and she did not report a need for medication to assist her in addressing her issues in a productive manner. Based on the information respondent gave to the psychiatrist,

providing respondent with a psychiatric evaluation six months earlier would not have changed the outcome.<sup>1</sup>

The trial court also did not clearly err in its determination regarding the child's best interest. The court acknowledged respondent's love of the minor child. However, the court correctly found that the minor child was entitled to grow up in a safe, stable, and drug free environment and that he had waited long enough for respondent to address her issues. The child had been in the court's temporary custody for a year, and respondent had received services for six months before the child was made a ward of the court. It was not appropriate to allow the child to continue in an impermanent and uncertain state for another year to see whether respondent would make significant progress on her goals. Respondent did not seem to understand the significance of addressing her issues in a serious manner and on a timely basis so that she could provide the minor child with the environment that he needed to thrive. Therefore, the trial court did not err in terminating her parental rights to the minor child.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ William C. Whitbeck  
/s/ Michael J. Talbot

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<sup>1</sup> In addition, respondent does not claim that, after her caseworker informed the trial court that the psychiatric evaluation was not sufficient to enable her to determine the necessary services for respondent, the trial court erred in denying the request for a second psychiatric evaluation.