

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 28, 2010

In the Matter of LIEBETRAU/RILEY, Minors.

No. 296816
Berrien Circuit Court
Family Division
LC No. 2008-000073-NA

Before: FITZGERALD, P.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

Respondent mother appeals by right an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

The children were originally removed in July 2008, after it was alleged that the mother allowed her then 12-year-old son to steal items from the mother's live-in girlfriend. When police investigated the matter, they found the home in deplorable condition and drug paraphernalia. The mother admitted to abusing prescription drugs. On September 3, 2008, the mother pleaded no contest to the allegations in the petition. She was ordered to comply with the parent-agency agreement (PAA). The needs identified for the mother were parenting skills, emotional stability, housing, resource availability, and substance abuse. A year later, the Department of Human Services (DHS) filed a supplemental petition seeking to terminate the mother's parental rights based on her failure to comply with or benefit from services.

The trial court did not clearly err in finding that the statutory grounds for termination of the mother's parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). The mother was employed at the time of the termination hearing, but the employment was relatively new, having begun only two months earlier. The mother had housing at the time of the hearing but admitted that she previously vacated one apartment after she lost her job and that she was evicted from another apartment for non-payment of rent. She lived with her mother during the periods when she lacked independent housing. While housing was an important aspect of the mother's PAA, it was not the primary barrier to reunification. Rather, it was the mother's failure to address her substance abuse problem. She consistently tested positive for extremely elevated levels of prescription medications. Even if the prescriptions were legally obtained, the evidence demonstrated that the mother had a history of abusing the drugs. The mother was discharged from an intensive outpatient program at Community Healing Center because of her methadone use. She was then denied services at the Berrien County Health Department's substance abuse center, not for financial reasons, but because she continued to deny that she had a problem. The worker never

received any documentation of the mother's participation in a substance abuse program. Additionally, although the mother was referred to AA and NA, she failed to provide documentation of her attendance.

The mother also failed to address her emotional instability. She received counseling from two therapists, neither of whom believed that the mother had progressed. Riverwood stopped seeing the mother in November 2009 because she had attended only one of eight sessions. The mother admitted she often missed appointments because "it has slipped my mind." Her progress was limited and her participation was poor. Although the mother reinitiated services with Riverwood in November 2009, she had already missed one appointment in December 2009.

In addition, the mother was briefly incarcerated on three different occasions during the pendency of this case for retail fraud, domestic abuse, and outstanding warrants for possession of cocaine and oxycontin. She also admitted to being pregnant, though she initially tried to deny it. The mother had suffered a miscarriage in December 2008, and her boyfriend at the time was now in prison. The father of the mother's unborn child was a different man. All of the foregoing demonstrates the chaotic life that the mother was living. She failed to demonstrate any stability.

Having found clear and convincing evidence of grounds for termination, the trial court then had to determine whether termination of the mother's parental rights was in children's best interests. MCL 712A.19b(5). The mother stresses that the boys both expressed a desire to have contact with her. But, the boys' counselor reported that the boys wanted to have "some kind of visitation although very infrequently, i.e., once every two weeks would be sufficient for them." He believed that the matter should proceed to termination, but he would not be opposed to infrequent visitation. Though the boys loved their mother and desired minimal contact with her, it was clearly in their best interests to terminate her parental rights. Both children were showing the results of a dysfunctional upbringing and were receiving individual counseling. The boys were enjoying a stable life with their paternal grandfather. The termination hearing took place 15 months after the children were removed from their mother's care. During that time, the mother failed to address her substance abuse and lack of emotional stability. The mother also had a history of unstable housing and employment. She was pregnant by a man who was her third boyfriend since the case began. She was simply not in a position to provide the boys with proper care or custody. It did not appear that the mother could demonstrate stability within a reasonable time, and the boys were entitled to permanence and stability. Both the DHS worker and the boys' therapist continuously expressed that the boys were "ready to move on with their lives."

We affirm.

/s/ E. Thomas Fitzgerald

/s/ Jane E. Markey

/s/ Jane M. Beckering