STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
January 18, 2011

In the Matter of A. B. EDWARDS, Minor.

No. 298431
Eaton Circuit Court
Family Division
LC No. 08-017070-NA

Before: METER, P.J., and M. J. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(*i*), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm.

The trial court did not clearly err in finding that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K).

In July 2008, the three-year-old child was found wandering around outside respondent's apartment complex. Respondent was inside sleeping and one of the oven burners was turned on at "high." Police officers woke respondent, who stated that she was not a morning person and that her son was very smart. At that time it was also discovered that, although suffering from a respiratory infection, respondent had neglected to give the child his course of antibiotics. Rather than remove the child from respondent's care, the decision was made to provide respondent with in-home services through Families First. Respondent sufficiently complied with the program to reduce her risk level from "high" to "moderate." However, the agency feared that respondent was still unable to consistently demonstrate the ability to meet her child's needs. And, in August 2008, the agency offered other services and referrals; these included continued Families First services, Families Together Building Strong Solutions, and a psychological evaluation.

Respondent completed the psychological evaluation on September 5, 2008. However, on September 8, 2008, respondent was again substantiated on a referral of neglect. Child Protective Services workers observed the child playing on the playground on the other side of the apartment complex while respondent was talking with some friends. Respondent was unemployed and was no longer eligible for cash assistance because of her noncompliance with Work First. The decision was made to remove the child from respondent's care.

Respondent's early efforts were weak. She was released from the Job Education and Training Program for noncompliance in February 2009. She had issues with personal hygiene and was asked to leave and shower on one occasion. Respondent would fill out job applications but fail to deliver them, claiming that her lack of transportation was an issue. Yet when advised that respondent could get her learner's permit and the agency would help pay the costs, respondent failed to take advantage of the offer. Respondent missed a number of classes and then often fell asleep in the classes she did attend. Despite several warnings, respondent failed to adjust her behavior and she was asked to leave the program.

Respondent's counseling sessions early on in the case were similarly weak. Her counselor testified that respondent was initially defensive and not receptive to counseling. Her attendance at first was also spotty. Respondent failed to appreciate the role she played in her son's removal and perceived herself at the victim. There did come a point when respondent's attendance improved, as did her attitude; she came to fully accept responsibility for the child's removal and also finally saw that her failure to properly supervise the child placed him in danger.

Respondent also successfully completed parenting classes in April 2009. Her instructor testified that respondent was an eager participant and even requested additional reading material. The instructor had a chance to meet with both respondent and her son and they worked on how respondent needed to read the child's cues. Respondent canceled only one session. The instructor noted that the condition of respondent's house was "okay" and not excessively dirty.

Respondent was also able to successfully locate and maintain employment. By the time of the termination hearing, respondent had been working at Taco Bell for approximately nine months. Although she earned meager wages, both the psychologist who performed respondent's psychological evaluation, Dr. Haugen, and her treating counselor, Jan Cilla, agreed that employment for respondent was crucial. It allowed her to participate in social settings and forced her to deal with stressors that accompanied having a job.

There was no question that respondent made strides in certain aspects of the case. Her hygiene had improved, the cleanliness of her home had improved, she was fully engaged in counseling, and she found employment. Still, respondent lacked sufficient progress to warrant reunification. Cilla described respondent's progress as "slow" and in "fits and starts." And, when asked if the child were returned to respondent, would he be at risk of harm, Cilla answered that she would like to think that respondent would do fine, but did not believe that she would:

> [t]hat's not the real world and in juggling all of those different stressors I think that she will still become easily frustrated, overwhelmed, agitated, emotional, and that her anxiety level, those things tend to, we see a surge in them when her anxiety level is high, so, you know, on a good day she'll—she'll do okay. On a bad day she won't.

Similarly, when asked if she thought termination of respondent's parental rights was in the child's best interests, Cilla noted that she had "really struggled with that with this case," but ultimately thought that the child "would have a tough go of it" whenever respondent "was having a tough go."

Much of Cilla's focus was on respondent's history. Both of her parents died when she was young. Respondent went to live with an aunt who was physically and emotionally abusive. There were no family members for respondent to look to for support and encouragement. Instead, respondent had a number of friends in whom she confided and relied on for support. The problem was that most of these friends were in the same position as respondent—young, with children, and unemployed. Respondent's home became a gathering place for all of these individuals. Respondent, therefore, had a family history of abuse and neglect that did not equip her with the skills she needed to raise her own child. Both Haugen and Cilla admitted that respondent was not a lost cause, but that she would require long-term support.

Based on the evidence, the statutory bases for termination were proven by clear and convincing evidence. MCL 712A.19b(3). What limited progress respondent did make was under order of the court and threats of termination. In light of that, it was reasonable for the court to assume that, absent constant intervention, respondent would likely revert to her old habits when the stresses of life and motherhood became too much. This was in keeping with the professional opinions rendered at trial. Contrary to respondent's assertions, this potential for future neglect was not mere speculation, but was grounded in the history of the case itself and respondent's behavior. The termination hearing occurred approximately 20 months after A. B. was placed into care. Respondent had made progress during that time, but the progress was slow there was evidence that it was not long-standing. Thus, there was clear and convincing evidence that more than 182 days had elapsed since adjudication and the conditions leading to adjudication continued to exist without the possibility that the conditions would be rectified *within a reasonable time* considering the child's age. MCL 712A.19b(3)(c)(*i*). And, although respondent may have come to realize that her failure to properly supervise A. B. placed him in danger, there was simply not enough evidence that respondent had rectified the problems with her parenting skills. Accordingly, the evidence also clearly and convincingly established that, even with gains in employment and housing, respondent would not be able to provide A. B. with proper care or custody within a reasonable time and that he would be at risk of harm if returned to her care. MCL 712A.19b(3)(g), and (j).

Having found the statutory grounds for termination proven by clear and convincing evidence, the trial court then had to determine whether termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). The visits generally went well in that both respondent and A. B. clearly enjoyed each other's company and were happy to see one another. More than one witness noted, however, that respondent seemed to lack the stamina to make it through a two-hour visit fully engaged with the young child. She was interactive for the first hour, but would then become distracted and do something else, such as read or talk on the phone. Still, no one doubted that they shared a bond and it was often difficult to end the visits. However, A. B. had recently changed a bit in his attitude toward the visits, wondering when they would end and when he could go home. He also developed some potty training issues that some speculated were the result of the stress of visiting respondent. Further, a foster care worker testified that A. B. had clearly bonded with his foster parents. He even expressed an interest in changing his last name and called his foster parents mom and dad. Because respondent was unwilling to change, did not make progress until recently—even with close to two years of service—and because A. B. was bonding with his foster parents, the foster care worker opined that it would be in A. B.'s best interests to terminate respondent's parental rights.

Twenty months had passed since A. B. was brought into care and there was little hope that respondent would make sufficient strides that reunification would be possible in the near future. He was entitled to permanence and stability. The trial court did not clearly err in finding that termination was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael J. Kelly
/s/ Amy Ronayne Krause