# STATE OF MICHIGAN

# COURT OF APPEALS

*In re* TUCKER, Minor.

UNPUBLISHED
January 9, 2018

No. 338632
Washtenaw Circuit Court
Family Division
LC No. 16-000068-NA

Before: O'CONNELL, P.J., and HOEKSTRA and SWARTZLE, JJ.

PER CURIAM.

Respondent-mother appeals as of right the order terminating her parental rights to the minor child, AT, under MCL 712A.19b(3)(g) (failure to provide proper care and custody). We affirm.

Respondent-mother's infant biological child, AT, was diagnosed with torticollis, cerebral palsy, hypertonia, slow motor skills, and severe eczema. There were also concerns that AT suffered from fetal alcohol syndrome. Due to these conditions, AT requires extensive medical treatment and therapy.

Petitioner filed a petition requesting that AT be removed from respondent-mother's care after learning that respondent-mother's parental rights to another child, GL, were terminated in California for physical neglect. The petition also noted that respondent-mother had herself earlier been diagnosed with fetal alcohol syndrome and had difficulty making appropriate decisions because of a cognitive impairment and that respondent-mother did not have appropriate housing or any baby items necessary to care for AT.

In the initial petition, petitioner also sought termination of respondent-mother's parental rights. On August 31, 2016, the trial court entered an ex parte order removing AT from respondent-mother's care. Following a hearing at which respondent-mother's psychiatrist, respondent-mother's aunt, and several of the child's caretakers testified, on May 19, 2017, the trial court terminated respondent-mother's parental rights under MCL 712A.19b(3)(g).

On appeal, respondent-mother argues that the trial court erred in terminating her parental rights because the statutory ground for termination was not supported by clear and convincing evidence. We disagree. "We review the trial court's findings of fact under the clearly erroneous standard." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009) (internal quotation marks and citation omitted); see also MCR 3.977(K). "A finding of fact 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).

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). Termination is proper under MCL 712A.19b(3)(g) when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age."

The testimony showed that, because of respondent-mother's emotional and intellectual issues, she was unable to provide proper care and custody for AT. A psychiatrist evaluated respondent-mother and testified that respondent-mother was emotionally and mentally unstable. According to the psychiatrist, respondent-mother would require at least 12 months of services before she could establish personal emotional and mental stability. Moreover, in the psychiatrist's opinion, respondent-mother would initially require 24-hour care to help her obtain stabilization. According to the psychiatrist, after respondent-mother obtained stability, her parenting skills could be further evaluated. The psychiatrist believed that respondent-mother could learn certain basic parenting tasks, such as feeding, bathing, and dressing, but opined that respondent-mother would never be able to take on the extra tasks that would be required to properly care for AT's special medical needs. Overall, the psychiatrist concluded that respondent-mother had less than a 20% chance of becoming a successful parent even after receiving extensive services over a 12-month period.

Respondent-mother's aunt, who had known respondent-mother for over 20 years, testified that she believed respondent-mother functioned at the cognitive level of a 10-year-old child. The aunt did not believe that respondent-mother would be able to care for AT because of respondent-mother's cognitive level and AT's special needs.

The aunt's opinion was consistent with that of the child's caretakers. Several witnesses observed respondent-mother's supervised visits with AT and testified that respondent-mother failed to bond with AT. Importantly, the testimony also indicated that respondent-mother failed to pay proper attention to AT. In one instance, respondent-mother fell asleep and failed to notice that AT was sitting in a diaper filled with diarrhea. During another visit, because respondent-mother was listening to headphones, she did not notice that AT was crying in pain. Moreover, respondent-mother was unable to perform the basic multi-tasking necessary to care for an infant child. For instance, respondent-mother was unable to hold AT and reach for baby wipes, bottles, or other common care items, and respondent-mother was unable to = supervise the child and prepare his bottle or other items at the same time.

Based on the record evidence, we conclude that the trial court did not clearly err in finding that there was no reasonable expectation that respondent-mother would be able to provide proper care and custody of AT within a reasonable period of time. While respondent-mother has engaged in the services offered her, respondent-mother's own needs render her incapable of providing the special care AT requires.

Respondent-mother also argues that the trial court erred in terminating her parental rights because she should have been provided specialized services to accommodate her intellectual disability so that she and AT could be reunited. See *In re Hicks/Brown*, __ Mich __; 893 NW2d 637 (2017). "Generally, reasonable efforts must be made to reunite the parent and children unless certain aggravating circumstances exist. However, the petitioner is not required to provide reunification services when termination of parental rights is the agency's goal." *In re Moss*, 301 Mich App 76, 90-91; 836 NW2d 182 (2013) (internal quotation marks and citations omitted). Here, petitioner sought termination of respondent-mother's parental rights in the initial petition and was therefore not required to provide reunification services, even in the face of respondent-mother's intellectual disability.

Accordingly, because the trial court did not err in concluding that clear and convincing evidence supported termination of respondent-mother's parental rights under MCL 712A.19b(3)(g), and respondent-mother does not challenge the trial court's best-interest determination, we conclude that the trial court did not err in terminating respondent-mother's parental rights.

Affirmed.

/s/ Peter D. O'Connell
/s/ Joel P. Hoekstra
/s/ Brock A. Swartzle