STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
October 13, 2011

In the Matter of L. R. POHL, Minor.

No. 302883
Ionia Circuit Court
Family Division
LC No. 2010-000506-NA

Before: MARKEY, P.J., and SERVITTO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (j) and (l). We affirm.

The minor child was removed from respondent at birth, and respondent's parental rights were terminated three months later at the initial disposition. Respondent argues that she was denied due process because counsel was not appointed for her at the preliminary hearing, her Initial Service Plan was admitted into evidence after the close of proofs, she was denied parenting time despite any identification of what specific harm would occur, and her parental rights were terminated without specific evidence. She also argues that she was deprived of an opportunity to participate meaningfully in the proceedings because the failure to provide reunification services resulted in the trial court lacking knowledge of her progress.

The trial court properly advised respondent of the right to counsel at her first court appearance, the preliminary hearing, as required by MCR 3.915(B)(1)(a), and the transcript clearly shows that it informed respondent that the hearing could wait until counsel was appointed, but respondent waived representation at that hearing. Respondent therefore waived representation, and there is no error for us to review. *United States v Olano*, 507 US 725, 733; 113 S Ct 1770; 123 L Ed 2d 508 (1993); *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000). We have examined the record and find no support for respondent's contention that she was misled.

The trial court's decision to admit evidence is reviewed for an abuse of discretion. *People v Smith*, 456 Mich 543, 550; 581 NW2d 654 (1998). All relevant and material evidence is admissible at a dispositional hearing, and the trial court is required to consider the case service plan. MCR 3.973(E)(2). We therefore find no abuse of discretion in the trial court's decision to admit the Initial Service Plan. Furthermore, we note that the trial court did not reference the Initial Service Plan in its oral opinion, but gave a thorough and accurate summary of the

testimony received from the various witnesses who appeared before it, and termination was warranted on that evidence.

Once a termination petition is filed, the trial court has the discretion to suspend visitation between the parent and the child. MCL 712A.19b(4); MCR 3.977(D). The trial court made a factual finding that the child may be harmed by visits with respondent, and the trial court's findings of fact are reviewed for clear error. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The child was removed from respondent at birth. The evidence showed that respondent failed to benefit from services offered during her previous termination of parental rights proceeding, and she used drugs and had an unstable life during her pregnancy and up to the day the minor child was born. The trial court did not clearly err in finding the child could be harmed by commencing visits and then abruptly halting them due to the likelihood that respondent would shortly be re-incarcerated or have her rights terminated.

Petitioner is only required to establish one statutory ground for termination by clear and convincing evidence; even if another basis for termination is found to have been based on insufficient evidence, reversal would not be warranted. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998). Termination here was based in part on MCL 712A.19b(3)(l), because respondent's parental rights to a son were terminated two years previously in Florida, after 2-1/2 years of drug rehabilitation and other services, which were unsuccessful. The order of termination in that case was admitted, thus establishing this statutory basis for termination. We therefore need not consider any of the other grounds relied on by the trial court. However, we briefly observe from the record that the evidence amply supported the trial court's findings that respondent's lifestyle in the interim between the Florida termination and the birth of the child in this proceeding indicated a very low likelihood that her sudden expressed desire for rehabilitation would last. The trial court had sufficient evidence under at least one of the statutory factors to terminate respondent's parental rights.

For the same reason, we reject respondent's argument that petitioner was required to provide reunification services. Respondent relies on *In re Mason*, 486 Mich 142; 782 NW2d 747 (2010). But *Mason* is significantly distinguishable because the rights of the parent in that case had not been previously terminated, he was entitled to a case service plan that the petitioner did not communicate to him or make minimal attempts to effect, and efforts were not made to secure his presence at hearings. *Id*. at 146-149, 152, 156-158. Additionally, respondent failed to prove that she had any inclination to rehabilitate until the time of the child's birth despite referrals, and the trial court was not convinced respondent would successfully rehabilitate within a time that was reasonable for the child. Denial of services was not error, did not affect the outcome of the proceeding, and therefore did not deprive respondent of the right to meaningfully participate in the proceeding.

Respondent participated in all hearings, and the trial court received testimony from all of her service providers detailing her participation and progress during the 2-1/2 months before the termination hearing. It was informed of all evidence and did not err in terminating respondent's parental rights based on that evidence.

Affirmed.

/s/ Jane E. Markey
/s/ Deborah A. Servitto
/s/ Amy Ronayne Krause