

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 20, 2011

In the Matter of H. PALMATEER, Minor.

No. 303022
Berrien Circuit Court
Family Division
LC No. 2010-000084-NA

Before: GLEICHER, P.J., AND HOEKSTRA AND STEPHENS, JJ.

PER CURIAM.

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

Respondent asserts that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree. We review the trial court's decision to terminate parental rights for clear error. MCR 3.977(E)(3) and (K); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). Clear error exists where "although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210, 661 NW2d 216 (2003).

The record demonstrates that respondent failed to provide proper care for the child by delaying prenatal care in order to hide her pregnancy from petitioner. The evidence also showed that respondent repeatedly entered relationships with abusive men to the detriment of her children. Respondent's oldest son was murdered by an abusive boyfriend and another son entered foster care in part because respondent's relationship with another man was marked by domestic violence. Respondent was provided with services to learn how to protect herself and her children and learned to identify signs that a man might be abusive. At the same time, she became involved with the instant child's father, S. Russell, who had a history of domestic violence. There was evidence that he was violent with her and that she lied about the relationship. Consequently, her parental rights to her second child were terminated. Respondent nonetheless maintained her relationship with Russell and was living with him as recently as two weeks before the termination hearing. Because respondent failed to benefit from services during the year that her second child was in foster care, and maintained her relationship with Russell while the instant child was in foster care, the trial court could properly find that respondent was unlikely to be able to provide proper care and custody for the child within a reasonable time, and

that, due to respondent's conduct or capacity, the child was likely to be harmed if placed in her care. Thus, termination was justified under §§ 19b(3)(g) and (j).

Further, it was undisputed that respondent's parental rights to her second child were previously terminated after that child was removed from respondent's care pursuant to a petition filed under MCL 712A.2(b). Therefore, termination of respondent's parental rights to the instant child was also justified under § 19b(3)(l).

Contrary to what respondent argues, petitioner was not required to prove long-term neglect as held in *Fritts v Krugh*, 354 Mich 97, 114; 92 NW2d 604 (1958), overruled on other grounds in *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993). The *Fritts* decision predates the enactment of § 19b(3), which now sets forth the criteria for termination. Further, petitioner was not required to provide respondent with reunification services in this case because her parental rights to her second child had previously been involuntarily terminated. MCL 712A.19a(2)(c).

Lastly, considering that the child was removed from respondent's custody at birth and respondent's failure to benefit from prior services, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCR 3.977(E)(4); MCL 712A.19b(5).

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Joel P. Hoekstra
/s/ Cynthia Diane Stephens