NO. 12-11-00137-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

IN THE INTEREST	***§***	***APPEAL FROM THE 307TH***
OF A.C.W.,	***§***	***JUDICAL DISTRICT COURT***
A CHILD	***§***	***GREGG COUNTY, TEXAS***

MEMORANDUM OPINION

S.S.L. appeals the termination of her parental rights. In one issue, S.S.L. challenges the order of termination. We affirm.

BACKGROUND

S.S.L. is the mother of one child, A.C.W., born July 11, 2010. On February 21, 2011, S.O. filed an original petition to terminate the parent-child relationship between S.S.L. and A.C.W., and for adoption of A.C.W. S.O. also requested the trial court appoint an attorney ad litem to provide legal services for the child. As grounds for termination, S.O. alleged that the termination was in the best interest of the child, and that S.S.L. executed an unrevoked or irrevocable affidavit of relinquishment of parental rights. S.S.L.'s affidavit for voluntary relinquishment of parental rights to A.C.W. was filed on February 25, 2011.

A hearing on the termination and adoption was held on April 15, 2011. S.O. testified that A.C.W. had been living in her home since she was born, that there was no presumed father, and that it was in A.C.W.'s best interest for S.S.L.'s parental rights to be terminated based on the affidavit of relinquishment. Also, S.O. requested that she be allowed to adopt the child, and that the child's name be changed. She testified that she could support A.C.W. financially without any governmental assistance or child support, and that she was emotionally capable of raising the

child on her own. Finally, S.O. stated that the termination, adoption, and name change were in A.C.W.'s best interest.

At the conclusion of the trial, the trial court found, by clear and convincing evidence, that S.S.L. had executed an unrevoked or irrevocable affidavit of relinquishment of parental rights, and that termination of the parent-child relationship between S.S.L. and A.C.W. was in the child's best interest. Based on these findings, the trial court ordered that the parent-child relationship between S.S.L. and A.C.W. be terminated.[1] In a separate order, the trial court also found that it was in the child's best interest to be adopted by S.O., and ordered that the adoption of A.C.W. by S.O. be granted. S.S.L. filed a motion for new trial and statement of points on which she intended to appeal. After a hearing, S.S.L.'s motion for new trial was denied, and the trial court filed findings of fact and conclusions of law. This appeal followed.

APPOINTMENT OF ATTORNEY AD LITEM FOR THE CHILD

In her sole issue, S.S.L. argues that the trial court committed reversible error by failing to appoint an attorney ad litem, amicus attorney, or guardian ad litem to represent the child's interest, and by failing to make the mandatory finding that S.O.'s interests were not adverse to the child's. In a private termination suit, the court must appoint either an amicus attorney or an attorney ad litem for the child, unless the court finds that the interests of the child will be represented adequately by a party to the suit whose interests are not in conflict with the child's interests. *See* TEX. FAM. CODE ANN. § 107.021(a-1) (West 2008).

In the order of termination and the findings of fact, the trial court found that S.O. had no interest adverse to, or contrary to, the child, and would adequately represent the child's interest. Thus, the trial court found that no attorney ad litem or amicus attorney was necessary to represent the child's interests, and none was appointed. In its conclusions of law, the trial court stated that there was no necessity for the appointment of a guardian ad litem for the child. Here, because the petition to terminate was not filed by a governmental entity, the trial court had discretion whether to appoint an amicus attorney or an attorney ad litem for the child. *See* TEX. FAM. CODE ANN. § 107.021(a-1). In determining that the appointment of an attorney ad litem,

[1] The trial court also ordered that the parent-child relationship, if any exists or could exist, between the alleged father and A.C.W. be terminated.

amicus attorney, or guardian ad litem was unnecessary, the trial court followed the statute in making its findings. *See* ***id.***

Further, the record reflects that S.O.'s primary interest was the child. At the termination and adoption hearing, S.O. testified regarding A.C.W.'s best interest. She stated that she could support A.C.W. financially without any governmental assistance or child support, and that she was emotionally capable of raising the child on her own. Further, a combined preadoptive home screening and postplacement adoptive report filed with the trial court showed that S.O. considered the child to be her daughter, had good child rearing skills, and was a positive influence on the child. This evidence supports the trial court's findings. Because the trial court followed the statute in making its findings, and the record supports those findings, the trial court did not abuse its discretion in failing to appoint an attorney ad litem, amicus attorney, or guardian ad litem for the child. *See* ***id.***

S.S.L.'s sole issue is overruled.

DISPOSITION

The judgment of the trial court is ***affirmed***.

BRIAN HOYLE
Justice

Opinion delivered April 18, 2012.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

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