

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LEITA DEPOTTEY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SARAH DEPOTTEY,

Respondent-Appellant.

UNPUBLISHED

November 17, 2009

No. 290308

Genesee Circuit Court

Family Division

LC No. 04-119044-NA

Before: Shapiro, P.J., and Jansen and Beckering, JJ.

PER CURIAM.

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

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(F)(1)(b), (G)(3), and (J); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Among the conditions that led to the initial adjudication were respondent's mental health problems and her drug and alcohol use. The evidence showed that respondent received services through Community Mental Health ("CMH"), which referred her to Consumer Services. Respondent will require life-long psychiatric care, occasionally has problems adjusting her medications, and is not always prompt in seeking a medical review. She blamed her medication problems for her failure to attend various meetings and two court hearings. She also used her medication problems as an excuse to self-medicate with illegal drugs and alcohol. She requires assistance to parent a child and would likely have trouble comprehending simple documents. She would need at least six months to a year of additional therapy before she could step down to case management services and potentially be a full-time parent.

Although respondent never tested positive for drugs or alcohol on the drug screens she completed during the pendency of this case, she admittedly relapsed after completing the drug court program, despite having spent nine months in an inpatient treatment facility.¹ She failed to

¹ Prior to her stay at the inpatient treatment facility in 2005-2006, she attended an inpatient (continued...)

complete any of the three substance abuse treatment programs she was referred to—Odyssey House, Sacred Heart, and Catholic Charities. She spent only three days at the Odyssey House and admitted using drugs after leaving. She attended months of counseling at Sacred Heart, but admitted using drugs again from November 2007 until January 2008, while she was receiving substance abuse counseling from her case manager at Consumer Services. She was not honest with her counselor about her many missed drug screens and the reasons she left the Sacred Heart program. She forged a sign-in sheet for NA/AA meetings from May 28 to July 1, 2007, and failed to provide any proof of attendance after August 2008. She never appeared for the Catholic Charities program.

Respondent enlisted her therapist's help, and that of the grandmother, in blaming the DHS for her failures. It is evident that respondent complies with services only when she wants to. She also made comments to the caseworker suggesting that she was using or had used an adulterant to ensure negative drug screens. Respondent never admitted having a drug problem, instead claiming that she was only an alcoholic, but turned to drugs when she had problems with her medications or was feeling depressed. Respondent's therapist admitted that respondent would need another six months to a year before she would be ready to step down to case management services. By then, the child will have been in foster care for almost three years. In light of this evidence, the trial court did not clearly err in finding that the conditions that led to the initial adjudication had not been rectified and that there was no reasonable likelihood that they would be rectified within a reasonable time considering the child's age, thereby justifying termination under § 19b(3)(c)(i).

With regard to § 19b(3)(g), the evidence showed that at least twice respondent left the child in the care of others for lengthy periods of time and relied on others to provide her with a place to live. She even left the child with a friend for an extended period of time, knowing the child was sick, but failed to provide a medical card, power of attorney, or any other means for the friend to procure medical care for the child. She was reluctant to try to live on her own or to make an attempt to work. As discussed previously, she failed to fully address her mental health and substance abuse issues and would need at least six months to a year of additional therapy before she could step down to case management services and be a full-time parent. The trial court did not clearly err in finding that there was clear and convincing evidence that respondent failed to provide proper care and that there was no reasonable expectation that she would be able to provide proper care within a reasonable time considering the child's age. Thus, the trial court did not err in finding that termination was also warranted under § 19b(3)(g).

Likewise, with respect to § 19b(3)(j), given the evidence that respondent twice left the child in the care of others for lengthy periods without making legal arrangements, that she never obtained her own place to live and did not plan to do so, her permanent mental health issues for which she did not consistently take her medication, and her failure to fully address her substance abuse problem, it is reasonably likely that the child would be harmed if returned to respondent's care. Thus, the trial court did not clearly err in finding that termination was also warranted under § 19b(3)(j).

(...continued)

alcoholism program for five weeks when she was only 18 or 19 years old and attended NA/AA meetings in 2003 or 2004 before the minor child was born.

Lastly, with respect to the child's best interests, despite the mutual love and affection between respondent and the child, the evidence showed that respondent failed to fully deal with her mental health and substance abuse problems. Also, the child was quiet and withdrawn while in respondent's care, but open and bubbly while in her foster home. The child had behavior problems while in respondent's care in 2006. Her behavior improved after she was taken into care, but deteriorated again when the respondent's mother began calling and visiting. The child had spent the majority of her life in foster care placement since her birth in May 2004 and was in need of stability and permanence, which respondent was not able to provide. Respondent showed no interest in becoming independent, but instead planned to live with her parents even though her father was occasionally abusive and her mother harbored conspiracy theories, blamed the DHS for respondent's problems, and felt justified in following and intimidating the foster mother. The trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Douglas B. Shapiro
/s/ Kathleen Jansen
/s/ Jane M. Beckering