

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CARLA ANN HEBNER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RACHEL FAE HEBNER,

Respondent-Appellant,

and

BOBBY TILLERY,

Respondent.

UNPUBLISHED

June 12, 2007

No. 275381

Van Buren Circuit Court

Family Division

LC No. 06-015350-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (i), and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In late 2004, respondent-appellant's older child, Michael, received life-threatening injuries for which she could not provide an adequate explanation. Respondent-appellant was provided with a treatment plan in which she did not significantly participate, and her parental rights to Michael were terminated. During the pendency of that matter, respondent-appellant became pregnant with Carla, the child involved in this case. Carla was removed from respondent-appellant's care immediately after her birth in March 2006, and petitioner sought termination of respondent-appellant's parental rights in its original petition, which stated specific factual allegations but did not state the statutory grounds under which termination was sought. Subsequent to adjudication of the petition but before the dispositional hearing, petitioner filed a second petition, again seeking termination of respondent-appellant's parental rights and citing various statutory grounds for termination, without stating any specific factual allegations.

On appeal, respondent-appellant claims that she was denied due process because the first and second petitions did not "correlate together." Because respondent-appellant was clearly advised of the factual basis upon which termination was sought by the first petition, she was not

denied due process. *In re Slis*, 144 Mich App 678, 684; 375 NW2d 788 (1985). A petition alleging neglect with specific factual allegations is adequate to provide due process to the respondent, even if it does not state the specific statutory grounds under which termination is sought. *Id.* The second petition could not have caused confusion because it contained no additional factual allegations, merely adding the statutory grounds for termination.

Respondent-appellant also claims, without citation to case authority and without elaboration, that she was denied due process because she never had an opportunity to parent the minor child. Where a party merely announces a position without providing authority, this Court ordinarily considers the issue waived, and we do so in this case. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002).

The trial court did not clearly err by finding that at least one statutory ground for termination of respondent-appellant's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant failed to provide proper care and custody for the minor child Carla when she used illegal drugs knowing that she was pregnant. See, e.g., *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987); *In re Gentry*, 142 Mich App 701, 708; 369 NW2d 889 (1985). During the previous proceedings involving her older child, Michael, many efforts were made toward reunification, but respondent-appellant never demonstrated substantial progress and continued to live or be closely associated with respondent father in a relationship that involved physical altercations and contributed to her drug use. This history provided the trial court sufficient basis to conclude that respondent-appellant would not be able to provide proper care and custody for the child within a reasonable time considering the age of the child. MCL 712A.19b(3)(g). Further, there is no dispute that respondent-appellant's parental rights to Michael were previously terminated on the grounds that she had the opportunity to prevent physical injury or abuse of that child, but failed to do so, that she failed to provide proper care and custody for him, and there was no reasonable likelihood that she would be able to do so within a reasonable time. MCL 712A.19b(3)(l). Attempts to rehabilitate respondent-appellant during the previous proceedings were not successful. MCL 712A.19b(3)(i).

Finally, the trial court did not clearly err by finding that termination of respondent-appellant's parental rights was not clearly contrary to the best interests of the child. MCL 712A.19b(5). The minor child has never been in the care of respondent-appellant. At the best interest hearing, the foster care worker testified that, despite respondent-appellant's recent participation in services, there did not appear to be any growth in her awareness or abilities since the previous intervention. All service providers viewed her participation as superficial, and she demonstrated little insight or willingness to take responsibility for her actions. At the time of the relatively recent psychological evaluation, respondent-appellant reported having been arrested two-and-a-half months earlier for drugs and driving with a suspended license. Under these circumstances, the trial court did not clearly err in finding that termination of respondent-appellant's parental rights was not clearly contrary to the best interests of the child.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio