

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JASON DAVIE MOYER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

AMBER MOYER,

Respondent-Appellant,

and

RICHARD CURTIS,

Respondent.

UNPUBLISHED

June 12, 2007

No. 275664

Branch Circuit Court

Family Division

LC No. 06-003341-NA

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

PER CURIAM.

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

Respondent first argues that the trial court's order should be reversed because the trial court failed to sufficiently state on the record its findings of fact and conclusions of law regarding the best interests of the minor child. We disagree. MCL 712A.19b(5) states that the trial court must terminate parental rights once it finds clear and convincing evidence of a statutory ground under MCL 712A.19b(3), unless it finds that termination is clearly contrary to the child's best interests. MCR 3.977(H)(1) requires the trial court to make brief, definite, and pertinent findings of fact and conclusions on the record before entering an order terminating parental rights. *In re Trejo Minors*, 462 Mich 341, 354-355; 612 NW2d 407 (2000).

In the present case, best interests evidence was presented by petitioner and, to some extent, respondent. The trial court made specific, definite and pertinent findings of fact on the record. The trial court did not use the phrase "clearly not in the child's best interests" or cite MCL 712A.19b(5). However, it is apparent from the trial court's findings that it was aware of the proper standard of proof and correctly applied the law to the facts. In its oral opinion, the trial court carefully considered all the evidence relative to respondent's ability to safely care for

her medically fragile child. The court recognized the progress respondent had made but ultimately concluded that respondent, because of her own limited capacity, could not safely care for her child. We conclude that the trial court's findings of fact and conclusions of law on the best interests issue were sufficient. See, e.g., *People v Armstrong*, 175 Mich App 181, 184-185; 437 NW2d 343 (1989) ("factual findings are sufficient so long as it appears that the trial court was aware of the issues in the case and correctly applied the law").

Next, respondent argues that her attorney was ineffective because he did not present any witness other than herself. In addition, respondent claims that counsel did not flesh out the best interests issue and failed to fully develop evidence related to respondent's efforts toward improving her parenting skills. Finally, respondent contends that her counsel's closing arguments failed to emphasize respondent's accomplishments and efforts toward correcting certain of her problems. However, respondent has not established what other evidence could have been presented that would have shed a better light on her parenting skills and abilities. Similarly, respondent has not identified any other witness that should have been called to testify on her behalf. Contrary to respondent's representations on appeal, on both direct and cross-examination, several of the witnesses testified regarding respondent's efforts, the challenges she faced because of her limited capacity, and the progress she had made. However, the overwhelming weight of evidence established that respondent, due to no fault of her own, lacked the ability to provide care for her medically fragile son. Indeed, there was persuasive evidence that respondent lacked the ability to live independently and care for herself. Simply put, respondent has not demonstrated that her counsel's performance was deficient or that the outcome would have been different had counsel been more effective. *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994); *In re CR*, 250 Mich App 185, 198; 646 NW2d 506 (2002).

Affirmed.

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