STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of Kierra Lana Clark, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NAOMI NICOLE DAVIS,

Respondent-Appellant.

UNPUBLISHED
July 17, 2007

No. 275346
Wayne Circuit Court
Family Division
LC No. 01-399320

Before: White, P.J., and Zahra and Fort Hood, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to minor child pursuant to MCL 712A.19b(g)[1] and (j).[2] We affirm.

Respondent is the mother of 8 children, the youngest of which is the minor child. At the time petitioner filed this case, respondent's parental rights to the 6 older children had previously been terminated.[3]

Petitioner brought the instant case soon after the minor child's June 12, 2006, birth. On June 20, 2006, petitioner requested the court authorize a petition that would place the minor child in the court's custody and terminate respondent's parental right to the minor child. On July 27, 2006, the court held a pretrial hearing in which respondent did not appear. The court conducted the trial hearing on October 19, 2006, and respondent again did not appear. Petitioner called only one witness, Tonya Pompey, the caseworker. Pompey testified that respondent's parental rights to 6 other children had been terminated, the most recent in August 2005, Dwayne Clark.

[1] The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

[2] There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

[3] The minor child's brief on appeal indicates that one child is under legal guardianship.

Pompey testified that the conditions leading to that termination were "[m]other living in deplorable condition, unsuitable housing." She also testified that respondent had been provided services through Families First to "help[] with budgeting, paying her bills on time, . . . cleaning up the house." Pompey indicated that the services had been "completed but unsuccessful."

In regard to the conditions bringing the minor child into care, Pompey testified that "[b]asically because of housing issues and prior terminations." She specifically testified that "[w]alls are missing from the home; big holes in the wall going up to the ceiling and through the roof; a lot of debris was in the home, you couldn't walk through the home; she didn't have provisions for the baby." Further, Pompey testified that respondent did not have baby diapers, bottles, or a crib. Pompey also indicated that respondent did not "see anything wrong with her home and her and her boyfriend were arguing at me that why couldn't the baby come live there."

Respondent argues that insufficient clear and convincing evidence was presented to support termination of her parental rights. We disagree.

Termination of parental rights is appropriate when the petitioner proves by clear and convincing evidence at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that termination is clearly not in the best interests of the children. *Id*. at 353.

This Court reviews "[p]robate court decisions terminating parental rights . . . for clear error. To be clearly erroneous, a decision must strike us as more than just maybe or probably wrong. . . . *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999) (Citations omitted); see also MCR 3.977(J) and *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *Fried, supra*.

Respondent specifically challenges Pompey's testimony that respondent was provided services in 2005, as untrue. Respondent claims that she did not receive services in 2005, and last received services in 2002. Petitioner, in its brief on appeal, admits that respondent was not provided services in 2005; however, petitioner maintains that "[r]espondent failed to turn in the paperwork in a timely fashion and the funding was lost," and that, in any event, respondent was not entitled to services.

Generally, when a child is removed from the custody of the parents, petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. MCL 712A.18f(1), (2), (4). However, services are not always required. *In re Terry*, 240 Mich App 14, 26, n 4; 610 NW2d 563 (2000). Pursuant to MCL 712A.19a(2)(a) and MCL 722.638(1)(b)(i), efforts toward reunification are not required where the "[t]he parent's rights to another child were terminated as a result of proceedings under section 2(b) of . . . MCL 712A.2. Here, respondent's parental rights to 6 children were previously terminated, and petitioner filed an instant initial petition requesting termination of parental rights. MCR 3.977(E). Petitioner did not attend the preliminary hearing and the court ordered a permanency plan for termination, not reunification. Therefore, we agree with petitioner that it was not

required to provide reunification services to respondent and its failure to do so does not warrant relief.

Further, the court did not clearly err in finding that petitioner established a ground for termination. There is no dispute that respondent's parental rights to 6 of her children were previously terminated for failing to proper care or custody for the children. The record reflects that respondent has continuously failed to provide her children with suitable housing. In regard to the first termination case, respondent's house had no heat and one of the children had high levels of lead. Petitioner helped respondent to a shelter, but she was ousted for failing to comply with rules. Then, respondent returned her children to her house without having rectifying any of the improper conditions. In the second termination case, the record also reflects an unsuitable house. The caseworker characterized the condition of the house as deplorable, particularly noting a broken window, piles of dirty dishes in the kitchen and bathroom, clutter throughout the home, filth, limited food and bug infestation. On her return trip, she observed shoes and trash on the roof and in the yard, and that foyer was cluttered. Grant asked respondent to enter, but respondent refused her entry.

How a parent treats one child is probative of how that parent might treat another. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). In the instant case, there was testimony, in regard to respondent's home, that "[w]alls are missing from the home; big holes in the wall going up to the ceiling and through the roof; a lot of debris was in the home, you couldn't walk through the home; [petitioner] didn't have provisions for the baby." Indeed, there was evidence that respondent did not have baby diapers, bottles, or a crib. The circumstances of the instant case are very similar to the circumstances that led to termination of parental rights to her other children. As pointed out by the court, respondent wholly lacks insight into a proper housing environment. There was testimony that respondent did not "see anything wrong with her home and [she] and her boyfriend [argued with the caseworker] that . . . the baby [should] live there." Sufficient evidence exists to conclude that respondent, "without regard to intent, fail[ed] to provide proper care or custody for the child and there is no reasonable expectation that [she] will be able to provide proper care and custody within a reasonable time considering the child's age."[4]

Respondent last argues that the court erred in terminating her parental rights because it was clearly not in Kierra's best interests. Respondent initially notes that the court did not specifically state its factual findings as to this statutory requirement. Respondent argues that the court's failure to do so is important "because the sole witness did not truthfully testify as to assistance given to mother." As earlier mentioned, however, respondent was not entitled to

[4] Although only one ground for termination is required to sustain the court's decision, *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000), the above evidence readily establishes MCL 712A.19b(j) (There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent). Respondent allowed her children to live in an unsuitable house. Based on her lack of insight into environmental neglect, there is a reasonable likelihood that respondent would continue to allow the minor child to live in unsuitable homes, and therefore harm the minor child.

services. Further, we reject respondent's contention that she has a significant bond with the minor child as without merit. The court authorized the petition to terminate her parental rights to the minor child a mere 8 days after she was born. The court did not err in refusing to find that termination was clearly not in the best interests of the minor child.

Affirmed.

/s/ Helene N. White
/s/ Brian K. Zahra
/s/ Karen M. Fort Hood