

STATE OF MICHIGAN
COURT OF APPEALS

In re T. J. HUGLEY, Minor.

UNPUBLISHED
May 14, 2020

No. 348795
Oakland Circuit Court
Family Division
LC Nos. 2018-865439-NA

Before: GADOLA, P.J., and STEPHENS and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right the trial court’s order terminating his parental rights to his daughter, TJH, pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). Because we conclude that the issue was moot at the time the trial court entered its order, we vacate the trial court’s order.

I. FACTS

This child protective proceeding arises out of allegations that respondent sexually abused his then 17-year-old daughter, TJH, while she was visiting his home during a two-week period in June 2018. Petitioner, the Department of Health and Human Services, filed a petition requesting that the trial court exercise jurisdiction over the child and terminate respondent’s parental rights at the initial dispositional hearing. Following a hearing, the trial court found that TJH came within its jurisdiction and also that statutory grounds existed to terminate respondent’s parental rights pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). Thereafter, the trial court conducted a hearing on the issue of the best interests of the child and at the conclusion of the hearing stated on the record that termination of respondent’s parental rights was in TJH’s best interests. The trial court did not enter a written order at that time, however. Shortly after the hearing, TJH turned 18 years old. The trial court thereafter entered an order terminating respondent’s parental rights to TJH.

Respondent filed this appeal, challenging the trial court’s order. Petitioner and the child’s guardian ad litem filed a joint motion to dismiss the appeal on the ground that it is moot because TJH is now an adult. This Court denied the motion, determining that “this appeal is not moot because respondent-appellant faces collateral legal consequences as a result of the termination of his parental rights to her.” *In re TJ Hugley Minor*, unpublished order of the Court of Appeals,

entered December 30, 2019 (Docket No. 348795). The parties thereafter submitted their arguments on respondent's substantive challenges to the trial court's order.

II. DISCUSSION

Whether an issue is moot is a threshold consideration that we address before reaching the substantive issues of an appeal. *In re MCI Telecom Complaint*, 460 Mich 396, 435 n 13; 596 NW2d 164 (1999). This Court has already concluded that this appeal is not moot given the collateral legal consequences respondent potentially will face as a result of the trial court's order. See *In re Smith*, 324 Mich App 28, 41-43; 919 NW2d 427 (2018). But although this appeal is not moot, we conclude that the issue whether respondent's parental rights should be terminated became moot when TJH reached the age of 18, which occurred approximately three weeks before the trial court entered its order terminating respondent's parental rights.

Michigan's courts may exercise only the authority granted to them by Michigan's constitution. *In re Smith*, 324 Mich App at 41. Essential to this judicial authority is the constraint that courts "do not reach moot questions or declare rules of law that have no practical legal effect in a case." *In re Detmer*, 321 Mich App 49, 55; 910 NW2d 318 (2017), quoting *City of Warren v City of Detroit*, 471 Mich 941, 941-942 (MARKMAN, J., concurring). Rather, "the judicial power . . . is the right to determine actual controversies arising between adverse litigants, duly instituted in courts of proper jurisdiction." *People v Richmond*, 486 Mich 29, 34-35; 782 NW2d 187 (2010) (quotation marks and citation omitted).

An issue is moot when an event occurs that makes it impossible for a court to provide a remedy, *Gleason v Kincaid*, 323 Mich App 308, 314; 917 NW2d 685 (2018), and when a judgment on the matter "cannot have any practical legal effect upon a then existing controversy." *Richmond*, 486 Mich at 34-35 (quotation marks and citation omitted). This requirement is commonly known as the real-case-or-controversy requirement, and it operates to prevent courts from issuing advisory opinions that do not have a practical legal effect on a specific case. *In re Smith*, 324 Mich App at 41.

As noted, when petitioner filed its petition requesting that the trial court exercise jurisdiction over TJH and terminate respondent's parental rights, TJH was 17 years old. After a hearing, the trial court found that TJH came within its jurisdiction and further found that statutory grounds existed to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(b)(i), (g), (j), and (k)(ii). Thereafter, the trial court conducted a hearing on the issue of the best interests of the child, and at the conclusion of the hearing stated as follows, in relevant part:

I will prepare a written opinion. But in fairness to everybody, I can tell you where I'm gonna land. I'm gonna land at termination. I'm gonna terminate his parental rights.

But I'm gonna prepare a written opinion because the Court of Appeals prefers that [, and prefers] that the reasons why I feel that that's in the young lady's best interest be outlined. And I make findings of fact. Then I'm – I could do that right now. But there's a time element to it, and the Court of Appeals prefers it in writing. So for those two reason[s], I'll do it in writing.

Shortly after the hearing, TJH turned 18 years old. The trial court thereafter entered its order terminating respondent's parental rights to TJH.

The family division of the circuit court has jurisdiction in proceedings concerning a juvenile under the age of 18 found within that county “[w]hose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian is an unfit place for the juvenile to live in.” MCL 712A.2(b)(2). Although generally the court does not have jurisdiction over a juvenile after he or she is 18 years old, MCL 712A.5, if the court has exercised jurisdiction over a juvenile under MCL 712A.2(a) or (b), “jurisdiction shall continue for a period of 2 years beyond the maximum age of jurisdiction conferred under section 2 of this chapter, unless the juvenile is released sooner by court order.” MCL 712A.2a(1). In this case, the trial court assumed jurisdiction of TJH when she was 17 years old, pursuant to MCL 712A.2(b)(2); having exercised jurisdiction over her when she was a juvenile, the trial court's jurisdiction continues for a period of two years beyond the maximum age of jurisdiction conferred by MCL 712A.2 (age 18), unless the trial court releases her from its jurisdiction sooner.

However, the Age of Majority Act of 1971, MCL 722.51 *et seq.*, expressly provides that in Michigan, all persons at least 18 years old are adults of legal age for all purposes whatsoever. MCL 722.52; *RPF Oil Co v Genesee Co*, ___ Mich App ___, ___; ___ NW2d ___ (2019) (Docket No. 344735); slip op at 3. Thus, although the trial court continued to have jurisdiction of TJH at the time it entered the order terminating respondent's parental rights, the issue upon which it was ruling, being whether to terminate respondent's parental rights, had become moot. Again, an issue is moot when an event occurs that makes it impossible for a court to provide a remedy. *Gleason*, 323 Mich App at 314. On the date that the trial court entered its order terminating respondent's parental rights to TJH, those rights had already ceased to exist by virtue of TJH reaching the age of 18. Put another way, although the court's jurisdiction over TJH may have continued for 2 years beyond her 18th birthday, respondent's parental rights did not. Instead, they terminated once TJH turned 18, rendering it impossible for the trial court to issue an order terminating those (nonexistent) rights.

Courts speak through written orders and judgments, not through oral rulings. *In re KMN*, 309 Mich App 274, 287; 870 NW2d 75 (2015). Although there are circumstances in which an oral ruling may be deemed to have the same force and effect of a written order, *Arbor Farms, LLC v GeoStar Corp*, 305 Mich App 374, 388; 853 NW2d 421 (2014), this case does not present those circumstances. When determining whether an oral ruling has the effect of a written order, this Court considers whether the oral ruling clearly communicated the finality of the court's pronouncement and contained “indicia of formality and finality comparable to that of a written order.” *Id.*; see also *People v Vincent*, 455 Mich 110, 125; 565 NW2d 629 (1997).

MCR 3.977(I)(3) provides that “[a]n order terminating parental rights under the Juvenile Code may not be entered unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order.” The trial court's findings of fact and conclusions of law may be in writing or stated on the record. MCR 3.977(I)(1). In this case, at the conclusion of the best interests hearing the trial court stated that it planned to terminate respondent's parental rights and that it would state its findings of fact in a written opinion. When the trial court entered its

order approximately three weeks later, TJH had already reached the age of majority and the issue regarding whether respondent's parental rights should be terminated was moot.

We therefore vacate the trial court's order terminating respondent's parental rights to TJH.

/s/ Michael F. Gadola
/s/ Cynthia Diane Stephens
/s/ Douglas B. Shapiro