STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A. ROMAN, Minor.

UNPUBLISHED
January 30, 2014

No. 316668
Wayne Circuit Court
Family Division
LC No. 99-381149-NA

Before: SERVITTO, P.J., and MURRAY and BOONSTRA, JJ.

PER CURIAM.

Respondent C. Roman appeals as of right from a trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(*ii*), (g), (i), (j), and (l). We affirm.

Respondent has a significant protective services history and has had her parental rights to four other children terminated. The child at issue in the instant petition came under the jurisdiction of the trial court when she tested positive for drugs at birth. Respondent has had and continues to suffer from extensive mental health and substance abuse issues for which she refuses treatment.

To the extent respondent challenges the trial court's determination that a statutory ground for termination had been established by clear and convincing evidence, she is not entitled to relief. First, respondent conceded at trial that § 19b(3)(l) had been established by clear and convincing evidence. "A party who expressly agrees with an issue in the trial court cannot then take a contrary position on appeal." *Grant v AAA Mich/Wisconsin, Inc (On Remand)*, 272 Mich App 142, 148; 724 NW2d 498 (2006). Thus, respondent waived any challenge with respect to § 19b(3)(l). *McClain v Univ of Mich Bd of Regents*, 256 Mich App 492, 494-495 n 2; 665 NW2d 484 (2003). Because only one statutory ground for termination need be established, *In re CR*, 250 Mich App 185, 195-196; 646 NW2d 506 (2002), and respondent agreed that § 19b(3)(l) had been proven, any error with respect to the remaining statutory grounds would be harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Second, respondent's argument on appeal appears confined to §§ 19b(3)(g) and (l). Where a respondent does not challenge the trial court's determination with respect to one or more of several statutory grounds, this Court may assume that the trial court did not clearly err in finding that the unchallenged grounds were proven by clear and convincing evidence. *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1999), overruled in part on other grounds by *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). Further, a respondent's failure to brief an issue that must necessarily be reached to reverse the trial court precludes appellate relief. *City of*

Riverview v Sibley Limestone, 270 Mich App 627, 638; 716 NW2d 615 (2006). Here, respondent's failure to advance any argument directed at §§ 19b(3)(b)(*ii*), (i), and (j) precludes appellate relief with respect to respondent's challenge to the existence of a statutory ground for termination.

Third, a review of the record discloses that respondent's arguments directed at §§ 19b(3)(g) and (l) are without merit. The evidence showed that respondent failed to provide proper care for the minor child by failing to obtain prenatal care and using drugs during her pregnancy, resulting in the child testing positive for cocaine when she was born. Further, considering respondent's prior CPS history dating back to 1999, her failure to benefit from services in the prior cases involving her other children, her unwillingness to abstain from using illegal drugs, and her significant mental health issues for which she was unwilling to obtain treatment or take medication, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time. Thus, the trial court did not clearly err in finding that § 19b(3)(g) was established by clear and convincing evidence. In addition, the evidence clearly showed that respondent's parental rights to another child had previously been involuntarily terminated after child protective proceedings were initiated under MCL 712A.2(b). Nothing more, such as proof of future neglect or an opportunity for rehabilitation, is required under § 19b(3)(l). Further, because § 19b(3)(l) does not include any type of temporal restriction, the date of the prior termination is immaterial to the applicability of that statutory ground. Because a statutory ground for termination was established by clear and convincing evidence, respondent's due process liberty interest in the custody and control of her child was eliminated. *In re Trejo*, 462 Mich at 355-356.

We further reject respondent's claim that termination was inappropriate because she was not offered reunification services. "In general, petitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid termination of parental rights." *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). "Reasonable efforts to reunite the child and family must be made in all cases" subject to certain exceptions, one of which is that the parent's rights to a sibling of the child at issue were involuntarily terminated. MCL 712A.19a(2)(c). It was undisputed that respondent's parental rights to another child had been terminated in 2007. Further, petitioner "is not required to provide reunification services when termination of parental rights is the agency's goal," *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009), such as in this case where termination is sought at the initial dispositional hearing. MCR 3.977(E); *In re Moss*, 301 Mich App 76, 91; 836 NW2d 182 (2013).

Finally, 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); MCR 3.977(E)(4). Respondent knowingly exposed the child to a risk of harm by using cocaine during her pregnancy even though that same conduct caused two of her other children to become court wards. Consideration of parenting ability and love and bonding aside, the evidence showed that respondent was actively psychotic (believing, for example, that she engaged in time travel and that the government harvested her eggs) and did not want to take appropriate medication to treat her condition. Instead, she preferred to self-medicate with illegal drugs such as marijuana and cocaine, which only exacerbated her psychotic symptoms. A psychologist testified that these circumstances rendered respondent completely incapable of raising a child. Further, the trial court gave due consideration to the child's placement with relatives in making its determination.

In re Mason, 486 Mich 142, 164; 782 NW2d 747 (2010); *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012). Therefore, the trial court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Deborah A. Servitto
/s/ Christopher M. Murray
/s/ Mark T. Boonstra