Affirmed and Opinion filed January 18, 2001.

In The

Fourteenth Court of Appeals

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NO. 14-99-01262-CV

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SHEILA RENITA DENMAN, Appellant

V.

ALTERNATIVES IN MOTION, Appellee

On Appeal from the 328th Judicial District
Fort Bend County, Texas
Trial Court Cause No. 107,855

O P I N I O N

Sheila Renita Denman appeals the denial of her motion to revoke her affidavit of relinquishment and the termination of her parental rights to her child, Baby Girl Denman, alleging that the relinquishment was involuntarily executed and that termination of the parent-child relationship is not in the best interests of the child. We affirm.

BACKGROUND

On January 29, 1999, appellant gave birth to Baby Girl Denman at home, and immediately drove herself, the baby, and her three other minor children to the hospital. Upon her arrival there, it was discovered that her blood pressure was extremely high, and she was admitted for bed rest, observation, and treatment. Appellant's other children were returned home to be cared for by appellant's adult daughter.

While in the hospital, appellant told hospital employees that she was divorced, was having financial difficulties, and did not think she could take care of another child. A social worker was contacted on appellant's behalf. Over the course of the following two days[1], appellant discussed adoption with social workers and expressed her desire to place Baby Girl Denman for adoption. On January 31, 1999, appellant signed an affidavit of relinquishment of her parental rights to the baby. The affidavit gave her rights to appellee, a state-licensed child-placing agency, and the agency placed the child for adoption.

At some point after being released from the hospital, appellant began regretting her decision to give the child up for adoption, and filed a motion to set aside the affidavit of relinquishment. On August 27, 1999, after a hearing, the trial court denied appellant's motion to revoke and signed an order terminating appellant's rights to Baby Girl Denman.

IRREVOCABLE AFFIDAVIT OF RELINQUISHMENT

An affidavit of relinquishment of parental rights that designates a licensed child-placing agency as managing conservator is generally irrevocable. *See* TEX. FAM. CODE ANN. § 161.103(e) (Vernon 1999). Once a parent has surrendered custody of a child via an irrevocable affidavit of relinquishment, the affidavit may be set aside only upon proof, by a preponderance of the evidence, that the affidavit was executed as a result of coercion, duress, fraud, deception, undue influence or overreaching. *See Brown v. McLennan County Child Children's Protective Services*, 627 S.W.2d 390, 395 (Tex. 1982);

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[1] A relinquishment affidavit cannot be signed by a parent less than 48 hours after the birth of the child. *See* TEX. FAM. CODE ANN. § 161.103(a)(1)(Vernon 1998).

In Interest of Baby Girl Bruno, 974 S.W.2d 401, 406 (Tex. App.–San Antonio 1998, no pet.).

Although appellant's pleadings raised allegations of fraud and coercion on the part of appellee, she presented no evidence at the hearing of any such wrongdoing, or of any irregularities in the execution of the affidavit itself. Moreover, while appellant alleged in her brief that the hospital nurse and social worker had exerted undue influence over her to sign the affidavit, these allegations are not borne out by the record as appellant presented no such evidence at the hearing. To the contrary, appellant's testimony for setting aside the affidavit of relinquishment centered on purely personal reasons, such as realizing that she had made a "mistake" and had not been in her "right frame of mind" upon her arrival at the hospital. However, having a change of mind is not sufficient to set aside an irrevocable affidavit of relinquishment. *See Brown*, 627 S.W.2d at 393 (stating that children voluntarily relinquished pursuant to family code provisions cannot be "snapped back" at the whim of the parent). As appellant failed to establish any recognized grounds for setting aside the affidavit of relinquishment, the trial court did not err in denying her motion. *See Bruno*, 974 S.W.2d at 406.

TERMINATION OF PARENTAL RIGHTS

Appellant also alleges there is no evidence showing that termination of her rights was in the best interest of her child. However, it is the intent of the legislature to make an irrevocable affidavit of relinquishment sufficient evidence on which the trial court can base a finding that termination is in the best interest of the child. *See Brown*, 627 S.W.2d at 394. Thus, an irrevocable affidavit of relinquishment and a petition for termination, such as were filed here by appellee, can alone support a judgment of termination. *Neal v. Texas Dept. of Human Services*, 814 S.W.2d 216, 224 (Tex. App.–San Antonio 1991, writ denied). In addition, appellant testified that she had decided it would not be in the child's best interest for her to keep the baby, as she was divorced, under a lot of stress, had two other small children to care for, and had financial problems. The social worker testified that although the adoption was an "open adoption," appellant had only asked to see the baby once, and that the child was doing very well with her new family. She further testified that in her opinion, termination of appellant's parental rights would be in the child's best interest. Accordingly, appellant's challenges are overruled, and the judgment of the trial court terminating

appellant's parental rights is affirmed.

PER CURIAM

Judgment rendered and Opinion filed January 18, 2001.

Panel consists of Justices Anderson, Fowler, and Edelman.

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