

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CARNELL SPENCER TERRELL,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AUDREY R. TERRELL,

Respondent-Appellant.

UNPUBLISHED

February 16, 1999

No. 209356

Kalamazoo Juvenile Court

LC No. 87-000040 NA

Before: Markman, P.J., and Bandstra and J.F. Kowalski*, JJ.

MEMORANDUM.

Respondent appeals as of right the juvenile court order terminating her parental rights pursuant to MCL 712A.19b(3)(i); MSA 27.3178(598.19b)(3)(i). We affirm.

Respondent's parental rights to six other children were terminated in 1987 and 1992 as a result of substance abuse problems.¹ Thus, soon after respondent gave birth on September 20, 1997, the Family Independence Agency ("FIA") filed a petition for permanent custody, and respondent stipulated to the existence of the statutory grounds for termination-- the previous termination of her parental rights. MCL 712A.19b(3)(i); MSA 27.3178(598.19b)(3)(i). In addition, she conceded that during the final month of her pregnancy with Carnell, she used two or three rocks of cocaine a day, and drank alcohol and smoked cocaine on the night she went into labor. She had never completed a drug treatment program, although she had managed to stay sober for almost two years in 1987 before relapsing, and at the time of the adjudication hearing, there was an outstanding warrant for her arrest. However, at the time of the adjudication hearing, respondent was in a drug treatment program where she was doing well and had shown a commitment to completing the program. The program would have allowed her to care for her child in a supervised environment for a maximum of six months. Respondent's counselor

* Circuit judge, sitting on the Court of Appeals by assignment.

testified that she believed that respondent could be a good mother as long as she stayed sober. The juvenile court found that although termination was not in respondent's best interests, it was in the child's best interest. The court stated that respondent's heavy drug use during her pregnancy, despite her knowledge of the effects such behavior would have on her child, was the fact that "tips the balance" in favor of termination.

Respondent does not dispute that the statutory ground for termination was sufficiently established. Rather, she contends that termination of her parental rights was clearly not in the child's best interests where the child could reside with her in a treatment program. Respondent acknowledged that her parental rights had been terminated with regard to six other children and that she had a long-term substance abuse problem. She further admitted that she used cocaine daily throughout her pregnancy, and consumed both cocaine and alcohol on the night that the child was born. In view of respondent's long history of substance abuse, her actions toward the child at issue during the pregnancy, and the fact that the solutions proposed involved relatively short-term programs, the trial court did not clearly err in finding that termination was in the best interests of the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 473; 564 NW2d 156 (1997).

Affirmed.

/s/ Stephen J. Markman

/s/ Richard A. Bandstra

/s/ John J. Kowalski

¹ Another daughter was removed to a permanent guardianship while respondent was in prison.