

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHERVON JONES, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PAMELA LINDA JONES,

Respondent-Appellant,

and

DOFICE HINES,

Respondent.

UNPUBLISHED

May 18, 2001

No. 228426

Wayne Circuit Court

Family Division

LC No. 96-336173

Before: White, P.J., and Cavanagh and Talbot, JJ.

PER CURIAM.

Respondent, Pamela L. Jones, appeals as of right the termination of her parental rights to the minor child, Chervon Jones (DOB 12/9/99), pursuant to MCL 712A.19b(3)(a)(ii) [desertion for at least 91 days], (g) [neglect], (i) [parental rights to 1 or more siblings have been terminated], and (j) [reasonable likelihood of harm if returned to the parent]; MSA 27.3178(598.19b)(3)(a)(ii), (g), (i), and (j). We affirm.

Respondent argues on appeal that not one of the asserted statutory grounds for termination was met by clear and convincing evidence. We disagree.

A trial court may not terminate a respondent's parental rights unless at least one of the statutory grounds for termination is established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000). This Court reviews the findings of fact under the clearly erroneous standard. MCR 5.974(I); *In re Ramsey*, 229 Mich App 310, 314; 581 NW2d 291 (1998). Once a statutory basis for termination is established, the trial court must terminate parental rights unless it finds that doing so is clearly not in the child's best interests. *Trejo, supra*

at 344; see also MCL 712A.19b(5); MSA 27.3178(598.19b)(5); MCR 5.974(F)(3). The trial court's ultimate decision regarding termination is reviewed in its entirety for clear error. *Trejo*, *supra* at 356-357.

At the termination hearing, evidence was adduced establishing that respondent's parental rights to three siblings to the minor, all born addicted to crack cocaine, had been adjudicated and permanently terminated after respondent failed to complete treatment plans. Further, Geraldine Bennet, a child protective services worker for petitioner FIA, testified that she came into contact with respondent through a referral made by the hospital in which the minor was born addicted to crack cocaine. The FIA foster care worker, Debra Napier, testified that the minor continued to suffer cocaine withdrawal symptoms for which medication was required. Napier further indicated that efforts to contact respondent from December 1999 to the date of the termination hearing in April 2000 were unsuccessful, that respondent did not contact her or visit the minor, and that neither respondent nor a relative of respondent came forth with a plan regarding the minor child.

Respondent testified that she had been residing in a home on a temporary basis with her fiancé for about a month prior to the termination hearing. Prior to this housing arrangement, respondent lived somewhere else for about a month, and prior to that, with relatives. Respondent explained that she could not call the FIA because she did not have a telephone and when she could get to a pay phone, she called the FIA but her attempts were unsuccessful. Respondent testified that she had been working for about a month and one-half at a retail shop nine hours a day, six days a week and earned \$240 per week. She further indicated that she had not used drugs for about two and one-half months and attended Narcotics Anonymous meetings three nights a week since she began working, but did not offer any proof of such attendance. Respondent noted that she completed one residential drug program in 1995 or 1996, but admitted she used crack cocaine during the fifth or sixth month of her pregnancy with the minor, despite being advised at prenatal care appointments that using drugs was dangerous for the baby.

We agree with the trial court that the asserted statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. Prior to the birth of the minor, respondent's parental rights to three other children were terminated as a consequence of respondent's drug use and her failure to rehabilitate. Nevertheless, respondent continued to use drugs during her pregnancy with the minor, causing the minor to be born addicted to crack cocaine. Respondent was aware of the dangers of such drug use and that the consequences of her behavior would be adverse to herself, and more importantly, to the minor.

Further, respondent has not demonstrated efforts consistent with a credible desire to rehabilitate and provide for the proper care of the child in a suitable and stable environment. Respondent continued to abuse drugs after the minor's birth, despite petitioner's initiation of the instant proceedings. Respondent did not set forth a meaningful plan to provide for the care of the minor. Respondent's housing arrangements were transient in nature and she had not maintained employment for a significant duration of time. Although respondent testified that she had been attending Narcotics Anonymous meetings, she failed to substantiate her claim. Further, in consideration of respondent's previous failed attempts to maintain a drug-free lifestyle, including completion of a residential drug program, we are not persuaded that her current drug treatment

regimen is sufficient to successfully address her persistent drug problem. In sum, the trial court properly concluded that the asserted statutory grounds for termination were established by clear and convincing evidence.

Next, respondent argues that termination of her parental rights was not in the best interests of the minor. Respondent primarily argues that she stopped using drugs because of the pain of losing her children and that she is motivated to change her behavior. However, respondent lost three children prior to her pregnancy with the minor and she still continued to use drugs while she was pregnant with the minor. Further, respondent continued to use drugs after the birth of the minor. In any event, respondent has inappropriately placed the focus of the best interests inquiry on her circumstances and desire for custody of the minor. Such reasoning is not persuasive. Once a statutory ground for termination was established, the trial court was required to terminate respondent's parental rights unless, from the evidence on the whole record, it appeared that termination was clearly not in the child's best interests. The evidence leads us to conclude that the trial court did not err in finding that termination of respondent's parental rights was not clearly contrary to the child's best interests.

Affirmed.

/s/ Helene N. White
/s/ Mark J. Cavanagh
/s/ Michael J. Talbot