

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of S.D., J.S.P., D.D.P., B.Y.M.P., and
A.W.-N.P., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHELLY LYNN DAY,

Respondent-Appellant,

and

KEVIN MCGRUDER,

Respondent.

UNPUBLISHED
December 20, 2002

No. 237577
Wayne Circuit Court
Family Division
LC No. 98-367145

Before: Owens, P.J., and Murphy and Cavanagh, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court orders terminating her parental rights to the minor children under MCL 712A.19b(3)(g). This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b). We affirm.

This case first came to the trial court in June 1998, when the oldest child reported that her stepfather, who was murdered during the pendency of this case, beat her. The responding officers found that the other children were dirty and there was no food in the home or diapers for the infant. Throughout the case, respondent-appellant made some progress and complied with many parts of the parent/agency agreement. She did not consistently maintain suitable housing for the five minor children, however. More disturbing was her failure to comply with the terms of the court-ordered weekly drug testing. Respondent-appellant tested positive for four controlled substances during this case and had many drug tests come back with evidence of adulteration.

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. See MCR 5.974(I); *In re Miller*, 433 Mich 331,

337; 445 NW2d 161 (1989). A failure to provide suitable housing and to comply with other aspects of a parent/agency agreement has been held to be a failure to provide proper care and custody. *In re Trejo*, 462 Mich 360-363; 612 NW2d 407 (2000). Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Donald S. Owens
/s/ William B. Murphy
/s/ Mark J. Cavanagh