STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of QUANTEZ LAWSON, DEOROIO LAWSON, DEVONTA RUSHING, ZAKESHA MCGEE, and ZAKEYA MCGEE, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BEVERLY GRACE,

Respondent-Appellant,

and

WILLIAM LAWSON, COLBERG RUSHING, and ZACHARY MCGEE,

Respondents.

UNPUBLISHED
April 8, 2004

No. 251851
Genesee Circuit Court
Family Division
LC No. 98-110681-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Respondent Grace appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) or (g). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The FIA filed a neglect petition in November 2001,[1] alleging that respondent was homeless and abusing alcohol and drugs. Respondent disappeared for days at a time, and when she was home, she engaged in verbal and physical altercations with family members and boyfriends. Respondent pleaded no contest to the allegations in the petition and the court

[1] This was the second petition filed against respondent. The first petition, filed in October 1998, was dismissed in November 1999.

assumed jurisdiction over the children on November 27, 2001. A treatment plan was established for respondent. It included parenting classes, anger management classes, domestic violence classes, individual and family counseling, employment and housing, substance abuse evaluation and treatment, drug screens, and parenting time.

The FIA filed a supplemental petition for termination in May 2003, because respondent had failed to comply with the treatment plan. She had been unable to maintain stable housing, was currently living with a relative, and was unemployed. A psychological evaluation indicated that she had a "poor" to "guarded" prognosis for being able to parent her children independently. She visited the children only sporadically and when she did visit, she was unable to supervise them or otherwise interact appropriately with them. The petition sought termination under §§ 19b(3)(a)(ii), (c)(i), (g) and (j).

A hearing was held on September 5, 2003. Respondent failed to attend the hearing, but her attorney was present. The foster care worker who had been assigned to this case since November 2002 testified that the children became court wards because respondent was homeless and had substance abuse problems and domestic relationship issues. The foster care worker testified that respondent had partially complied with the treatment plan during the pendency of the case, but respondent's overall compliance was poor. Respondent never obtained and maintained adequate housing or income. Further, respondent did not display any skills or knowledge gained in the parenting classes.

Regarding visitation, the foster care worker testified that respondent "came in basically when she wanted to. There were a lot of no-shows and no calls." Respondent had missed ten of twenty-one scheduled visits. Visits were suspended in June because of respondent's lack of compliance and because the termination petition had been filed.

The children's attorney read a letter written by respondent's oldest child, Quantez, who said he had been living with his father and step-mother, but left their home because he thought respondent would regain custody of him and his siblings. He did not like living with his aunt, with whom he had been placed, and wanted to return to his father's home or live with his older brother, Berlin Turner. He did not want to be adopted by anyone else and have to live in "a home I don't like."

The trial court did not clearly err in finding that at least one statutory ground for termination had been proved by clear and convincing evidence. *In re IEM,* 233 Mich App 438, 450; 592 NW2d 751 (1999). Although respondent had completed many aspects of the treatment plan, she still lacked adequate housing and a source of income after nearly two years.

The trial court was not required to find that termination was in the children's best interests. *In re Trejo Minors,* 462 Mich 341, 357, 364 n 19; 612 NW2d 407 (2000). Rather, if at least one statutory ground for termination has been proved, the court was required to order termination unless it found that termination was clearly not in the children's best interests. MCL 712A.19b(5). Given that respondent was still unable to assume custody after nearly two years, the evidence did not clearly show that termination was contrary to the children's best interests.

The fact that the oldest child wanted to be placed with a relative rather than be adopted does not mandate a different result. Nothing in the law directs the court to refrain from ordering

termination when the child could alternatively be placed with relatives, *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984), and thus, if it is within the best interests of the child to do so, the court may terminate parental rights instead of placing the child with relatives. *In re IEM, supra* at 453; *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). The child's proposed custodians were not suitable. The father's parental rights were terminated and there was no evidence that the child's older brother was able or willing to assume custody.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette