

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DWIGHT LA-SHAWN SMITH,
JR., STEPHANIE ANN SMITH, and
MAR'KEITH LITTLE SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DWIGHT LASHAWN SMITH, SR.,

Respondent-Appellant,

and

JENNIFER ANN CARSON,

Respondent.

In the Matter of DWIGHT LA-SHAWN SMITH,
JR., STEPHANIE ANN SMITH, and MAR'KEITH
LITTLE SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JENNIFER ANN CARSON,

Respondent-Appellant,

and

UNPUBLISHED

April 13, 2004

No. 249695

Wayne Circuit Court

Family Division

LC No. 00-394012

No. 249774

Wayne Circuit Court

Family Division

LC No. 00-394012

DWIGHT LESHAUN SMITH,¹

Respondent.

Before: Griffin, P.J., and White and Donofrio, JJ.

MEMORANDUM.

In these consolidated cases, respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Subsections (c)(i) and (g) were established by respondent father's unsuccessful efforts to secure suitable housing and full-time employment. Although the evidence was sometimes confusing, there was sufficient evidence that established respondent father had received referrals for housing in the years 2000 and 2003 and also received assistance from his therapist in the search for housing. He may even have been on a waiting list at one point for HUD housing. However, almost three years after this case began, respondent father remained living in his mother's home. There was testimony that this paternal grandmother's home had been offered as a possible placement for the children, but other evidence indicated this was a possibility only. According to respondent father, at the beginning of the case the paternal grandmother was not willing to house the minor children. Then, at the trial hearing nearly three years later, respondent father indicated that he would need to check with his mother before the children could be placed in her home. Due to this failure to obtain housing, an adjudicating condition continued to exist and respondent father was also unable to provide proper care and custody of the children. Further, there was no reasonable expectation that he would be able to secure housing within a reasonable time given the ages of the children. Although respondent father had made many great strides in planning for the children, the pace had been slow and the children could not wait longer.

The trial court likewise did not err in terminating respondent mother's parental rights on the statutory grounds of subsections (c)(i) and (g). Respondent mother self-reported her inability to properly provide for the children when she brought the children to the police after becoming homeless. Her lack of compliance with the treatment plan resulted in the continuation of the adjudicating conditions, and the finding that she was not able to properly provide for the children. In addition, her non-compliance made clear there was no reasonable expectation that she would improve the adjudicating conditions or her parenting skills within a reasonable time.

¹ Although his name is spelled slightly differently in the captions of these consolidated cases, this party is the same respondent father.

The trial court erred in basing termination on subsection (j) since there was no evidence that the behavior of either respondent caused a likelihood of harm to the children. However, this was harmless error since the trial court properly based termination on two other statutory grounds. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Lastly, the termination of respondents' parental rights was not contrary to the best interests of the children since the children had already waited almost three years in the hope that respondents could provide the necessary security and stability in their lives. Waiting longer was not in the children's best interests.

Affirmed.

/s/ Richard Allen Griffin
/s/ Helene N. White
/s/ Pat M. Donofrio