

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of SIMONE ERYN TEMPLE,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SENTRA ELEANOR TRUE,

Respondent-Appellant,

and

ROBERT CHARLES TEMPLE, JR.,

Respondent.

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UNPUBLISHED

April 13, 2004

No. 249981

Kalamazoo Circuit Court

Family Division

LC No. 02-000055-NA

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

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). 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(G) and (J); *In re Miller*, 433 Mich 331, 337, 344-345; 445 NW2d 161 (1989). The principal conditions of adjudication were that respondent-appellant had struck the minor child in the head, shoplifted in her presence, and failed to support her while the child was in the care of another family for most of her life since age four. Respondent-appellant's marijuana use was also an issue, as evidenced by her positive test for marijuana on the final day of the adjudication trial. The evidence clearly and convincingly showed that these conditions continued to exist more than 182 days after the issuance of the initial dispositional order. Respondent-appellant's parenting skills remained problematic throughout this matter. For example, she promised the minor child a check and then

sent her an empty sealed envelope. In a telephone call she demanded that the child choose on the spot between her foster family and respondent-appellant, stating that she would have nothing to do with the minor child if she indicated she did not want to come home. Respondent-appellant failed to contact the child in any way in the months following this conversation, and has entirely failed to support her throughout the pendency of this matter. Respondent-appellant, who lives in Chicago, has visited the minor child only twice since the entry of the dispositional order. Further, respondent-appellant has submitted no urine screens, even though the parent agency agreement required her to do so on a weekly basis. The evidence amply demonstrates that the conditions of adjudication, including respondent-appellant's inadequate parenting skills, failure to support Simone, and drug use continued to exist at the time of the termination trial. Moreover, the evidence clearly and convincingly supports the trial court's conclusion that these problems would not be rectified within a reasonable time. According to her psychological evaluation, respondent-appellant is unempathic and hostile, characteristics manifestly evident in those interactions with the child that were detailed on the record. The evaluation further indicated that respondent is satisfied with herself and sees no need to change. The evidence offered no basis to expect that any of the conditions of adjudication would be rectified within a reasonable time or at all. Therefore, the trial court did not clearly err by terminating respondent-appellant's parental rights pursuant to MCL 712A.19b(3)(c)(i).

We also conclude that the trial court did not clearly err by finding that respondent-appellant failed to provide proper care and custody for the minor child and would be unable to do so in the future. MCL 712A.19b(3)(g). Respondent-appellant clearly failed to provide proper care and custody for the child when she struck her in the head, shoplifted in her presence, and failed to support her while she was in the care of another family. The same evidence that demonstrates that the conditions of adjudication will not be rectified in the future also provides clear and convincing evidence that respondent-appellant will not be able to provide proper care and custody for the minor child within a reasonable time. We note that respondent-appellant's failure to carry out critical aspects of the parent-agency agreement, notably drug testing, parenting classes, and regular visitation, also constitute evidence of her inability to provide proper care and custody for the minor child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

Respondent-appellant contends on appeal that she was deprived of her due process right to live in the place of her choice by being forced to live in Kalamazoo in order to maintain her parental rights. The record simply does not support respondent-appellant's contention that she was forced to live in Kalamazoo in order to maintain her parental rights. The evidence indicated that respondent-appellant could have fulfilled the terms of her parent-agency agreement by obtaining services in Chicago, but she exerted little effort to do so. Moreover, even after regular telephone contact with Simone was arranged, apparently due to respondent-appellant's job commitment in Chicago, respondent-appellant deliberately limited that contact by failing to provide a telephone card for Simone and then discontinued contact entirely after demanding that Simone choose between respondent-appellant and her foster family.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the minor child. MCL 712A.19b(5). The minor child has lived with her foster family for most of her life since age four, uses the foster family's surname, and considers herself one of the family. She exhibited great relief after deciding that she did not want to return to respondent-appellant. The foster parents wish to adopt her. There was no evidence on the record suggesting that termination would be contrary to the child's best interests.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ William B. Murphy  
/s/ Michael R. Smolenski