

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANTOINE DEON JACQUAN
ODOMS, JR., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AMEENA KHALIDDA JOSEPH,

Respondent-Appellant,

and

ANTOINE DEON JACQUAN ODOMS, SR.,

Respondent.

UNPUBLISHED

July 20, 2004

No. 251368

Wayne Circuit Court

Family Division

LC No. 99-382556

Before: Zahra, P.J., and Talbot and Wilder, JJ.

PER CURIAM.

Respondent Ameena Khalidda Joseph appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g). We affirm.

I. Facts and Procedure

In September 1999, respondent, then sixteen-years old, was placed in foster care with her son Antoine, then one-year old, because of neglect by respondent's mother. In November 1999, the court placed Antoine under its jurisdiction, because respondent, also a ward of the court, could not provide him adequate food or sleeping provisions. Respondent and her child were permitted to live together in foster care as long as respondent complied with her treatment plan, which required her to attend school and parenting classes and participate in random drug screens.

At a permanency planning hearing on February 5, 2002, the court ordered respondent and Antoine to live apart because of respondent's noncompliance with her treatment plan. During that hearing, evidence revealed that respondent failed to maintain employment and advance educationally. She also stayed at her mother's house, violated curfew, and rode the bus late at night with Antoine. At post-dispositional review on January 16, 2003, the court reiterated the

necessity of respondent getting a GED, maintaining a job, and finding independent housing.¹ Testimony revealed that respondent had not taken advantage of helpful resources and referrals from social workers, counselors, and organizations. During a permanency planning hearing on April 1, 2003, evidence showed that respondent had tested positive for marijuana numerous times, and she admitted to using it regularly for the past three years. Respondent had passed only one GED test, had missed an appointment to get back in classes, and was not following through with therapy. Nonetheless, respondent and her son consistently shared a normal, secure bond. During their weekly visits, respondent acted responsibly. She brought snacks, reviewed numbers, letters, and colors, and engaged in activities Antoine enjoyed. They both looked forward to these visits and showed an emotional connection.

Petitioner filed a petition seeking permanent custody of the child on May 15, 2003. At the trial on September 17, 2003, the court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g). The trial court found that respondent had not met any education goals and could not support Antoine with the part-time job that she had started ten days earlier. Before that job, she had been unemployed for over a year. She depended on her mother and part-time employer for housing. She regularly missed therapy appointments. While living with Antoine, respondent violated curfew and left Antoine alone in the house while she smoked marijuana on the porch. Respondent admitted that she had last used marijuana at the end of August, and before that had been smoking marijuana daily. Respondent had attended twenty-one of thirty possible visits with Antoine in 2002, and ten of eighteen in 2003. The court concluded that the evidence clearly and convincingly demonstrated that respondent's parental rights should be terminated.

II. Analysis

A. Standard of Review

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). Once a ground for termination is established, the court must order termination unless there is clear evidence, on the whole record, that it is not in the child's best interest. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court's decision is reviewed for clear error. *In re IEM*, *supra* at 451. A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

B. Discussion

As an initial matter, the trial court found that there was clear and convincing evidence supporting the following ground for termination:

¹ Because of her age, respondent was no longer a ward of the court as of May 2002, and had begun living with her mother again.

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age. [MCL 712A.19b(3)(g).]

The evidence supports the trial court's conclusion that respondent failed to provide proper care and custody for Antoine. Respondent admitted that she could not provide food or sleeping arrangements for Antoine when she was under the court's jurisdiction. The evidence also supports the trial court's conclusion that there was no reasonable likelihood that respondent would be able to provide proper care and custody for Antoine within a reasonable time. Respondent had only been employed briefly at a part-time job that did not pay enough to support herself and Antoine, who was nearly six years old as of the termination trial. Before that, any employment she had was sporadic and brief. Respondent failed to secure independent housing, even though the trial court had ordered her to obtain it eight months earlier, and she struggled with marijuana abuse. Therefore, the trial court did not clearly err in finding that respondent would be unable to provide proper care and custody for Antoine within a reasonable time.

Respondent contends that the trial court erred in holding that termination of parental rights was not clearly contrary to the child's best interests. We disagree. MCL 712A.19b(5) provides that the court "shall" terminate parental rights if one statutory ground for termination is found, "unless" termination is clearly not in the best interests of the child. *In re Trejo*, *supra* at 350. This provision attempts to strike a balance between policies favoring preservation of the family unit and the need for security and permanency for the child. *Id.* at 354.

The trial court correctly found that the child's need for permanency outweighed the potential damage caused by severing the parent-child relationship. Since respondent and Antoine visited infrequently and had been apart so long, damage had already been done to their relationship. Antoine had been under court jurisdiction for over four years, and the trial court properly determined that terminating respondent's parental rights would be in Antoine's best interests because of his need for permanency.² Even though respondent and Antoine share a loving bond, respondent's history of irresponsibility casts doubt on her abilities to be a responsible parent and act in Antoine's best interests. At the time of termination, respondent had no suitable housing, had only a part-time job that would not support both her and Antoine, and

² In *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991), this Court found no error in the trial court holding that termination of parental rights was not contrary to the children's best interest where the children had been wards of the court for approximately three years and needed permanency.

had not demonstrated abstinence from marijuana. We are not left with a firm conviction that the trial court made a mistake when it found termination would not be contrary to the child's best interests.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Kurtis T. Wilder