

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RONALD FRANZELL
GARNER-BROWN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

JUDY GARNER,

Respondent-Appellant.

UNPUBLISHED

September 14, 2004

No. 253884

Wayne Circuit Court

Family Division

LC No. 01-403637

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

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). Because the trial court did not clearly err in finding clear and convincing evidence for termination of parental rights, and termination was not clearly contrary to the child's best interests, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.911(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); MCR 3.997(J) Respondent's argument that the FIA failed to make reasonable efforts to help her manage the child's medical diagnoses of failure to thrive and fetal alcohol syndrome is not supported by the evidence. The FIA made referrals for parenting classes, counseling, drug treatment programs, and drug screens and also required respondent to attend the child's medical appointments. Respondent did not comply with all of the referrals and requirements, and the trial court did not clearly err in finding that the FIA made the requisite reasonable efforts.

The trial court also did not clearly err when it based termination upon MCL 712A.19b(3)(c)(i) because the evidence established that respondent had not rectified her substance abuse problem. Although abuse recovery is admittedly an arduous struggle, respondent's refusal to participate in the recommended outpatient program, inconsistent effort at recovery, and lack of insight does not bode well for her timely recovery. Respondent was warned and encouraged on numerous occasions relative to her sobriety. Post program sobriety failures was the norm for respondent. Termination was also proper pursuant to MCL 712A.19b(3)(g) despite the fact that respondent was caring for an older sibling of the minor

child. The evidence pertaining to the child at issue here established both a failure by respondent to provide proper care in the past, lack of interest and effort in attending to the child's medical needs, and a dim outlook that proper care could be provided within a reasonable time given the child's young age.

Respondent's final argument concerns the best interests of the child. If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate the respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). In *Trejo*, the Supreme Court held that there was no specific burden on either party to present evidence of the child's best interests; rather, the trial court should weigh all evidence available. *Id.* at 352-354. In this case, a review of all available evidence leads this Court to conclude that termination was clearly not against the child's best interests, despite the existence of a bond between the child and respondent and the fact that an older sibling remained in respondent's care.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot