

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LATOIA DAVIN POSEY,
DAVAUN CHRISTMAS POSEY, and D'ANTAE
VICTOR POSEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHYRALL ELEANOR HORTON,

Respondent-Appellant,

and

DAVID RALPH POSEY,

Respondent.

UNPUBLISHED

September 14, 2004

No. 254286

Wayne Circuit Court

Family Division

LC No. 01-399859

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

MEMORANDUM.

Respondent-appellant appeals as of right from the circuit court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

The circuit 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 Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant failed to demonstrate at any time that there was a reasonable likelihood that she would be able to rectify the conditions that led to the adjudication of her children, her homelessness and lack of ability to provide for the children. Respondent-appellant also failed to demonstrate a reasonable likelihood that she would be able to rectify the conditions that became known after adjudication, such as her drug abuse and failure to regularly visit the children or cooperate with services, within a reasonable time considering the ages of the children. Respondent-appellant failed to maintain either suitable housing or income during the two years her children were in care, and there was no reasonable likelihood that she would be able to do so within a reasonable time. Having utterly failed to succeed in any aspect of her treatment plan, respondent-appellant's conduct and capacity clearly and

convincingly established that the children would likely be harmed if returned to her care. Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Therefore, the circuit court did not err in terminating respondent-appellant's parental rights to the minor children.

Lastly, respondent-appellant argues she was denied due process because she was not present at the termination hearing. However, the court noted that she had checked in that morning but failed to present herself for trial and that she had been personally served on the previous court date. Her attorney, who was present, did not object to the continuation of the hearing on the basis of due process. Finally, respondent has failed to show how her presence could have meaningfully aided her attorney, who was present, or affected the outcome of the proceedings. *People v Carines*, 460 Mich App 750, 763; 597 NW2d 130 (1999); *In re Andeson*, 155 Mich App 615, 617-619; 400 NW2d 330 (1986).

Affirmed.

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