

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of MORIA LEATHERMAN, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANNA L. CHILDRESS,

Respondent-Appellant,

and

ARCHIE LEATHERMAN,

Respondent.

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UNPUBLISHED

May 10, 2005

No. 258644

Kent Circuit Court

Family Division

LC No. 04-052835-NA

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712.19b(3)(c)(i), (g) and (j). We affirm.

The trial court did not clearly err in determining that at least one of the statutory grounds was established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

First, we find no clear error in the trial court's finding that the evidence supported termination under MCL 712A.19b(3)(c)(i). The primary condition that led to the adjudication in this case was respondent-appellant's serious substance abuse problem. The evidence clearly established that, more than 182 days after the court entered the initial dispositional order, respondent-appellant had not yet rectified her substance abuse problem having tested positive for cocaine and marijuana during the proceedings, going into "chronic addiction" during the proceedings and beginning inpatient treatment shortly before the termination trial. Moreover, respondent-appellant has an extensive history of serious drug abuse and, despite past treatment, has been unable to maintain her sobriety to the detriment of her children as evidenced by their removals due to her drug abuse. Given respondent-appellant's past relapses, despite her

involvement and apparent progress with treatment, and her extensive history of serious drug use, it remained unlikely that she would be able to successfully address her substance abuse problem, the condition that led to the adjudication, even with continued services.

For the same reasons we also find that termination was justified under MCL 712A.19b(3)(g). Given respondent-appellant's inability to successfully address her substance abuse problem in the past to the detriment of her children we find no reasonable expectation that she would be able to successfully address her substance abuse problem within a reasonable time if ever, to enable her to provide proper care and custody for the child.

Because respondent-appellant was not given adequate notice that she would have to defend on the statutory ground found in MCL 712A.19b(3)(j), the trial court erred in relying on this ground. *In re Perry*, 193 Mich App 648, 651; 484 NW2d 768 (1992); *In re Slis*, 144 Mich App 678, 684; 375 NW2d 788 (1985). However, the trial court's error was harmless because the court properly found other statutory grounds for termination under MCL 712A.19b(3)(c)(i) and (g) as specified in the petition. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000); *In re Perry*, *supra* at 651.

Finally, although there was evidence that respondent-appellant had a bond with the child, she desired to be a good parent and had recently made progress towards addressing her serious substance abuse problem by beginning a treatment program, given the foregoing evidence we find no clear error in the trial court's determination that termination was in the child's best interests.<sup>1</sup> Respondent-appellant's recurring, serious drug problem would likely result in a potentially harmful environment and create instability and a lack of permanency for the young child.

Affirmed.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Patrick M. Meter

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<sup>1</sup> The trial court went beyond the best interest inquiry under MCL 712A.19b(5). The statute does not require that the court affirmatively find that termination is in the child's best interests. *In re Trejo*, *supra* at 364 n 19.