STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of E.W., D.W., M.W., D.D.W., J.E.W., J.W., and T.W., Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EDWARD FENDERSON,

Respondent-Appellant,

and

TAMIKA LASHAWN WILLIS,

Respondent.

UNPUBLISHED
December 20, 2005

No. 262179
Oakland Circuit Court
Family Division
LC No. 02-673034-NA

In the Matter of E.W., D.W., M.W., D.D.W., J.E.W., J.W., T.W., N.N.W., T.C.W., and D.D.W., Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

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v

TAMIKA WILLIS,

Respondent-Appellant,

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No. 262180
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EDWARD FENDERSON,

Respondent.

Before: Cavanagh, P.J., and Cooper and Donofrio, JJ.

PER CURIAM.

In these consolidated appeals, respondent-father appeals as of right from the trial court order terminating his parental rights to his minor children under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j), and respondent-mother appeals as of right from the trial court orders terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

This case began in November 2002, after respondents' 11-month-old infant died while sleeping in a twin-sized upper bunk bed with her 12- and 14-year-old sisters. The house was found to be in deplorable condition. There was no heat, and the house was infested with cockroaches. The stove was not working, the toilet was not working and was filled with feces, the sink was not working and was torn out of the wall, and there were two inches of feces in the bathtub. No food or beverages other than a package of bacon was found in the home. There were no sheets or covers, only bare mattresses, and the home was filled with piles of dirty clothes and garbage. This home had been provided to respondents by the FIA. When the FIA provided the home, there was food in the refrigerator, beds and bedding for all the children, and everything that was needed to make the home suitable for the family. After the children were removed from their care, respondents signed a parent/agency agreement. They were required to attend and participate in individual counseling, have a psychological and psychiatric evaluation, submit to random drug screens, attend parenting classes, attend visitation, and obtain suitable housing and verifiable income.

The trial court did not clearly err in finding that statutory grounds for termination of both respondents' parental rights had been established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). The court correctly found that respondents had been given ample time to comply with the parent/agency agreement and had failed to substantially fulfill the majority of the goals and objectives. Two years after the children were removed from the home, respondents could not verify that they had suitable housing or suitable income to support the family. The lease on the home in which respondents lived had expired and, in fact, provided for one adult and eight children, which the court correctly found was not sufficient to accommodate two adults and ten children. Although the caseworker had found the new home to be an improvement over the previous home, it was still found to be cluttered. Respondent-mother was not employed and respondent-father worked only part-time. No children were in the home. If respondents could not maintain an uncluttered house under those circumstances, the court did not clearly err in having "great concern" that, if the children were returned to their care, they might be subject to an intolerable living environment once again. The court also did not clearly err in finding that respondents' financial plan was inadequate. No documentation was provided to the court of income or expenses. Based on respondents' representations, the claimed income was not sufficient to cover the numerous unexpected and extra expenses for a family of this size,

including medical bills for the children, clothing, school supplies, extra-curricular activities, and car related expenses.

Although respondents did complete parenting classes, it was clear that they did not benefit from them. See *In re Gazella*, *supra* at 676. The caseworkers reported that respondent-mother was unable to interact with her younger children during visitation and had inappropriate interactions with her older children, showing that she had not incorporated the concepts that were taught at parenting classes. Respondent-father exhibited inappropriate behavior towards the caseworker and the caregiver in front of the children. When his own actions resulted in supervised visitation, he refused to visit the children, demonstrating that his stubbornness was more important than his time with the children. Respondent-father refused to attend counseling sessions, was hostile to the counselor, and drove away from one session in an angry huff. The evidence established that he was not interested in changing any of his behaviors.

Respondent-mother also refused to participate in counseling. She stated that she stopped counseling because she did not like the counselor calling her about appointments early in the morning. She argued with the caregivers and caused such a ruckus at the hospital while visiting her sick daughter that she was escorted out and prohibited from returning without supervision. She also disobeyed court orders concerning visitation, which resulted in supervised visitation only for her as well. Respondent-mother contended that her baby would not have died if the Protective Services worker who came to her house three weeks before had taken the children away at that time. When asked what she had learned during the last two years, she replied that she learned that she did not want to "go through dealing with the state" again. She believed that she had complied with everything in the parent/agency agreement and did everything she was asked to do. The evidence was clear and convincing that respondent-mother had shown no growth or improvement or understanding of the reasons why she had lost custody of her children. She placed the blame for her situation on everyone except herself. Her lack of commitment to fulfilling the requirements of the parent/agency agreement showed that she was not interested in improving her parenting and housekeeping skills and did not have the motivation to do what was required to have her children returned to her.

Next, respondent-father contends that the trial court erred in finding clear and convincing evidence that reasonable efforts were made by the DHS. We disagree. The record shows that the DHS provided services and made every effort to help respondents comply with the requirements of their parent/agency agreement. Instead, respondents chose not to take advantage of the services provided and showed little motivation to change. We conclude that the trial court did not clearly err in finding that the DHS made reasonable efforts to assist respondents in addressing the problems that brought the children into care.

Further, the evidence did not show that termination of respondents' parental rights was against the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353, 356-357; 612 NW2d 407 (2000). Although respondent-mother attended most visitations and the children clearly loved her and wanted to be reunited with her, respondent-mother had not learned from her parenting classes, had been terminated from counseling for failure to participate and lack of motivation, and had failed to comply with the requirements of the parent/agency agreement. After two years, respondent-mother had not modified her behavior, had not demonstrated the motivation and desire to gain the return of her children, and blamed the agency and others for her problems. Similarly, respondent-father did not participate in counseling and

did not demonstrate any interest in changing his conduct or behaviors so that he could become a stable parent for the children.

We disagree that this case is analogous to *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991), as respondent-father argues. This case differs from *Newman* in two important ways. First, the *Newman* Court found that the respondents had "demonstrated over the course of time an ability and willingness to learn." *Id*. at 66. Here, respondents did not demonstrate that ability or willingness. Second, in *Newman* the Court found that while the DSS claimed that the respondents' home was too filthy for the five children who had been removed from the home, it permitted the respondents' young baby to remain there. *Id*. at 67. In this case, the DHS did petition and remove the two children born during the case because of concern that the infants would be at serious risk with respondents.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Jessica R. Cooper
/s/ Pat M. Donofrio