

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JUNA SOLE COLON and
ROBERTO COLON III, Minors.

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

UNPUBLISHED
February 13, 2007

Petitioner-Appellee,

v

KIMARA COLON,

Respondent-Appellant.

No. 272047
Oakland Circuit Court
Family Division
LC No. 04-688108-NA

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(j). We affirm.

This Court reviews decisions terminating parental rights for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 357; 612 NW2d 407 (2000). The trial court did not clearly err in finding that section (j) was established by clear and convincing evidence. Respondent mother admitted that she was an alcoholic and that she used cocaine when she drank. She admitted that she was using at the time of trial and that she would not pass a drug test. She testified that, in the six months preceding the trial, she entered both outpatient treatment and inpatient treatment and did not complete either. Although there was no direct evidence that respondent mother's substance abuse problem endangered her children, there was enough circumstantial evidence for the trial court to find that petitioner established that there was a reasonable likelihood, based on respondent mother's drug use, that the children would be harmed if returned to respondent mother's home.

The trial court also did not clearly err in its best interests determination. Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interest. MCL 712A.19b(5); *Trejo*, *supra* at 344. After finding that a statutory basis for termination was established, the trial court gave respondent mother an opportunity to complete treatment so that it could find that termination was not in the children's best interests. Respondent mother did not do so and did not even appear for the best interests hearing.

Although there was evidence of a bond between respondent mother and the children, that evidence was overwhelmed by respondent mother's inability to complete drug treatment when she knew her parental rights hung in the balance.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio