

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CAROLYN MAKENZIE
NEWMAN, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MELISSA ANN COHEE,

Respondent-Appellant,

and

PHILLIP ARTHUR NEWMAN,

Respondent.

UNPUBLISHED

March 22, 2007

No. 272714

Saginaw Circuit Court

Family Division

LC No. 04-029321-NA

Before: Zahra, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent contends that the trial court clearly erred in terminating her parental rights. Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that termination is clearly not in the child's best interests. *Id.* at 353. This Court reviews the trial court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The petition alleged that the minor child was living in an unsafe and unsanitary environment. Specifically, it alleged that there was trash throughout the home, moldy food in the kitchen, and large holes in the front door. It was also alleged that the child was very dirty and

unkempt, that no services had been provided to the child for her developmental delays, and that the child was found with an inappropriate caretaker who tried to hinder CPS from investigating a complaint of neglect.

Respondent argues that because she had made positive changes in her life, termination was not appropriate under MCL 712A.19b(3)(c)(i) and (g). Although respondent may have rectified the conditions regarding the home, her parenting skills were still an issue at the time of the termination hearing. Despite the services provided her, she failed to understand her child's special needs and how to address such needs. The caseworker and the clinical social worker both testified that respondent would not be able to care for her daughter within the foreseeable future, even with continued services. Thus, termination was warranted under MCL 712.19b(3)(c)(i) and (g).

Respondent next contends that the trial court clearly erred in basing termination on MCL 712A.19b(3)(j) because there was no evidence that she ever struck or purposefully harmed her daughter. However, subsection (j) does not require evidence that respondent purposefully harmed the child. Rather, the statute only requires clear and convincing proof demonstrating a reasonable likelihood, based on respondent's conduct or capacity, that the child will be harmed if returned to respondent's care. Respondent's failure to understand her daughter's special needs and how to address those needs posed a risk of harm to the child. The clinical social worker documented her concerns regarding respondent's ability to keep the child safe. Therefore, the record supports the finding that there was a reasonable likelihood, based on respondent's conduct, that the minor child would be harmed if returned to respondent's care, MCL 712A.19b(3)(j).

Finally, respondent contends that it was not in the child's best interests to terminate respondent's parental rights. Respondent obviously loves her daughter. However, the child needed more than respondent's love. According to the caseworker, the child needed structure and someone who could handle her special needs. At the time of the termination hearing, respondent was not able to provide such care. Thus, the trial court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens