STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ANTHONY JAMAR DILLARD-LINDSEY, AYANA AALIYAH YONTS-LINDSEY, and ASHLEY MARIE YONTS-LINDSEY, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILLIE LEE YONTS,

Respondent-Appellant,

and

CARMAIL GLADYS LINDSEY and FREDERICK DILLARD,

Respondents.

UNPUBLISHED
July 17, 2007

No. 274974
Wayne Circuit Court
Family Division
LC No. 05-437815-NA

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CARMAIL GLADYS LINDSEY,

Respondent-Appellant.

and

WILLIE LEE YONTS and FREDERICK DILLARD,

Respondents.

No. 274975
Wayne Circuit Court
Family Division
LC No. 05-437815-NA

Before: Meter, P.J., and Talbot and Owens, J.J.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from orders terminating their parental rights to their minor children under MCL 712A.19b(3)(a)(ii), MCL 712A.19b(3)(c)(i), MCL 712A.19b(3)(g), MCL 712A.19b(3)(i), MCL 712A.19b(3)(j), and MCL 712A.19b(3)(k)(i). We affirm.

In order to terminate parental rights, the trial court must find that at least one statutory basis for termination has been established by clear and convincing evidence. *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2002). Once it makes such a finding, the court must order termination of parental rights unless it would clearly not be in the children's best interests. MCL 712A.19b(5). We review the trial court's findings that grounds for termination exist and the court's decision regarding the children's best interests under the clearly erroneous standard. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We find that there was clear and convincing evidence to terminate respondents' parental rights under MCL 712A.19b(3)(g) and that termination was not clearly contrary to the best interests of the children.

MCL 712A.19b(3)(g) states:

> The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, [that] . . . [t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Respondents in this case were given a year to establish their ability to provide proper care and custody for their children and failed to do so. The court had ordered that respondents be given an opportunity to improve their lives and respondents agreed with the court that one year would be sufficient to take care of the requirements in their parent-agency agreements (PAAs). The primary requirements of Lindsey's PAA were drug screens, individual counseling, parenting classes, and parenting time with her children. However, the record shows that Lindsey regularly missed required drug screens. When she did submit screens, she often tested positive for drugs. She attended counseling and parenting classes but there is evidence that she did not benefit from either service – she missed roughly two thirds of her scheduled parenting time in 2005, she did not improve her interaction or bond with her children during the parenting time she did attend, and she continued to deny the importance of her drug abuse.

When parents are court-ordered to comply with treatment plans, this Court has ruled:

> [I]t is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody. In other words, it is necessary, but not sufficient, to physically comply with the

> terms of a parent/agency agreement or case service plan. For example, attending parenting classes, but learning nothing from them and, therefore, not changing one's harmful parenting behaviors, is of no benefit to the parent or child. [*In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).]

The record supports the trial court's conclusion that Lindsey's compliance with individual counseling and parenting classes was the insufficient "physical" compliance the Court addressed in *Gazella*.

The primary requirements of Yonts's PAA were drug screens, parenting classes, finding and maintaining suitable income and housing, and attendance at scheduled parenting time. Yonts did attend parenting classes. However, he missed two thirds of his scheduled parenting time in 2005, and the court concluded that he failed to benefit from parenting classes. Yonts also frequently missed required drug screens and tested positive for 75 percent of the screens he did submit in 2006. He continued to abuse drugs throughout the duration of the case and had a final positive screen just days before the termination hearing began. Additionally, there is evidence that he failed to maintain suitable housing or regular employment.[1]

Respondents' failure to comply with their PAAs is evidence of their failure to provide proper care and custody for their children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Also, given that respondents agreed with the court that one year would be sufficient to rectify the conditions that led to adjudication and then subsequently failed to comply with many of the requirements in their treatment plans, such as providing drug screens and attending parenting time, it is unlikely that respondents would be able to provide proper care or custody for their children at any reasonable time in the future. Thus, the trial court did not clearly err when it terminated respondents' parental rights under MCL 712A.19b(3)(g). Because termination was proper under this subsection, we will not address the remaining statutory grounds. See *In re Sours*, 459 Mich 624, 640-641; 593 NW2d 520 (1999).

Respondents contend that termination of their parental rights was clearly not in the best interests of their children. In its order terminating parental rights to Anthony and Ayana, the trial court concluded:

> [T]here is no evidence to show that termination of parental rights is clearly not in the children's best interest. These children have been in foster care for a significant period of time and are at an age where permanent planning is essential for continued growth and development. Reasonable efforts have been made by [DHS] to prevent the children's removal from the home and reasonable efforts have been made to attempt to rectify the conditions causing such removal. These efforts have been unsuccessful.

[1] We reject Yonts's argument on appeal regarding the alleged failure of DHS to make reasonable efforts to reunite him with his children; we note, significantly, that he was dilatory in raising this claim.

The trial court came to a similar conclusion regarding Ashley.

The court's findings regarding the best interests of the children were proper. The two youngest children had not been in respondents' care since shortly after the children's births. The oldest child, Anthony, was removed from Lindsey's care six months after his birth. By failing to comply with their PAAs, respondents failed to establish their ability to parent their children. Additionally, the caseworker testified that there was little or no bond between respondents and their children and that termination was in the best interests of the children, and "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Based on the record, the trial court did not clearly err in finding that termination of respondents' parental rights was not clearly contrary to the best interests of the children.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael J. Talbot
/s/ Donald S. Owens