

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CONNER JAMES CASE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HEATHER CASE,

Respondent-Appellant.

UNPUBLISHED

October 25, 2007

No. 277710

Kalamazoo Circuit Court

Family Division

LC No. 06-000019-NA

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

MEMORANDUM.

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

Ample evidence existed on the record to support the trial court's decision that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). By the time of the termination hearing, the primary adjudicating condition still existed in that respondent was again incarcerated and had no available placement for the child. Respondent's drug use was another condition that caused the child to come within the court's jurisdiction, resulted in respondent's failure to provide proper care for the child, and placed the child at risk of harm. Given respondent's failure to participate in services and her failure to recognize her drug use to be a serious problem, there was no reasonable likelihood or expectation that she would rectify her drug use problem soon. Nor was there a likelihood that respondent would be able to properly parent the child within a reasonable time; the child had been in care for 13 of his approximately 20 months of life.

Respondent argues that family members should have been investigated more vigorously as candidates for relative placement or as people who could assist respondent in caring for the child. In making this argument, respondent apparently concedes that she was not yet able to properly care for the child on her own. Respondent cites no statute to support her argument except to say that MCL 722.954a and MCL 712A.13a evidence the high value placed by Michigan's legislature on preserving the family unit. A review of the evidence shows that neither the foster care worker nor the trial court erred in their responsibilities. The foster care worker fully complied with MCL 722.954a when he assisted respondent in an unsuccessful effort to arrange relative placement instead of foster care. There is no statute that requires the court to

order mediation where family members could have a say in the placement of the child. Neither the foster care worker nor the trial court had any information to suggest that any relative was interested in caring for the child, and there was no requirement that a child be placed in relative care. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d (1991). Respondent cannot propose a relative placement at the last moment as a way to forestall termination of parental rights, especially when the child had been in foster care for over a year by the time of the termination hearing. There is no merit to respondent's argument.

Lastly, the trial court did not clearly err in its best interests determination. MCL 712A.19b(5). The minor child was a medically fragile child, who required a degree of care that respondent failed to show she could provide.

We affirm.

/s/ Donald S. Owens
/s/ Richard A. Bandstra
/s/ Alton T. Davis