

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARTIEZ LANCE STEVENS,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KRISTY HOLLY STEVENS,

Respondent-Appellant,

and

LANCE BRIDGES,

Respondent.

In the Matter of MARTIEZ LANCE STEVENS,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LANCE BRIDGES,

Respondent-Appellant,

and

KRISTY HOLLY STEVENS,

Respondent.

UNPUBLISHED
December 27, 2007

No. 278251
Wayne Circuit Court
Family Division
LC No. 04-433671-NA

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Before: Murray, P.J., and Hoekstra and Wilder, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (h), and (j). We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err by finding at least one statutory ground for termination of respondent mother's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). The primary conditions of adjudication were respondent mother's longstanding drug abuse and domestic violence between the parents. Although respondent mother participated with some aspects of her treatment plan, throughout the one-year pendency of this case she submitted only three out of 36 possible drug screens, all of them in September 2006, the month in which she completed her substance abuse treatment program. Especially in light of respondent mother's history of cocaine abuse from the age of 14, her complete failure to provide drug screens after providing them quite consistently for the month following her completion of substance abuse treatment supplies convincing evidence that respondent mother's substance abuse has not been rectified, and the trial court did not clearly err in so finding. MCL 712A.19b(3)(c)(i). That conclusion is further supported by evidence that respondent mother was involved in a vehicular accident, reportedly in September 2006, following her consumption of a half pint of vodka. Respondent mother's long history of substance abuse and failure to demonstrate sobriety throughout this matter supplies evidence adequate to support the trial court's conclusion that there is no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the age of the child.¹

The evidence also warranted termination of respondent mother's parental rights under MCL 712A.19b(3)(g). Respondent mother failed to provide proper care and custody by using cocaine while pregnant with Martiez. See *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987); *In re Gentry*, 142 Mich App 701, 708; 369 NW2d 889 (1985). Moreover, the evidence amply indicated that she will be unable to provide proper care and custody for him within a reasonable time considering his age. MCL 712A.19b(3)(g). Respondent mother exhibited marked instability during these proceedings of little over one year, including two incarcerations and one hospitalization, the latter resulting from an auto accident involving respondent mother's consumption of alcohol. She has made herself unavailable to the child by virtue of her incarcerations and hospitalization, visiting him only 15 out of 44 possible times during these proceedings (and missing a substantial number of visits when not incarcerated). She is not employed, supplied only two pay stubs throughout this case, and last held full-time employment in 1998. We are left with no impression that the trial court made a mistake by finding no

¹ We also note that respondent received a psychiatric evaluation on May 16, 2006, in which she was diagnosed with bipolar disorder with psychotic features, and in which a long history of drug use starting at age nine was noted. Respondent's prognosis was guarded to poor.

reasonable likelihood that respondent mother would be able to provide proper care and custody for the minor child within a reasonable time considering his age. *Terry, supra* at 22. The same evidence demonstrating that respondent mother would be unable to provide proper care and custody for the child within a reasonable time, MCL 712A.19b(3)(g), equally establishes that there is a reasonable likelihood that the child would be harmed if returned to the care of respondent mother, so that the trial court did not clearly err by terminating her parental rights under MCL 712A.19b(3)(j).

Respondent mother finally claims that remand is required because the trial court failed to make findings concerning the best interests of the child pursuant to MCL 712A.19b(5). However, “[n]either the statute nor the court rule requires the court to make specific findings on the question of best interests,” and such findings are not required if, as here, no party offers evidence that termination is contrary to the best interests of the child. *In re Gazella*, 264 Mich App 668, 677, 678; 692 NW2d 708 (2005). In any event, it appears clear from the record before us that termination of respondent mother’s parental rights is in the best interests of the child. He has been out of her care since one month of age, she has visited him only 15 times during these proceedings, and she has demonstrated continuing instability and substance abuse.

The trial court also did not clearly err by finding at least one statutory ground for termination of respondent father’s parental rights was established by clear and convincing evidence. *Terry, supra* at 22. Respondent father failed to provide proper care and custody for the child, MCL 712A.19b(3)(g), by failing to establish paternity until March 2007, even though he was present at a meeting concerning the child in March 2006, received notice of the proceedings, and indicated by letter that he wished to be involved. Because of respondent father’s failure to establish paternity, he was not provided a treatment plan until February 2007, has not seen the child since he came into care, and has no relationship with him. Respondent father is currently incarcerated with his earliest release date being January 11, 2009. Although he asserts he may be released earlier, the record contains no evidence to support this contention. Thus, respondent father would not be able to even begin to carry out his treatment plan until approximately 20 months from the date of the termination order. The trial court did not clearly err by finding that 20 months is not a reasonable time for a child who was 14 months old at the time of termination to wait for the uncertain prospect of rehabilitation of respondent father. We conclude that the evidence adequately supported termination of respondent father’s parental rights under MCL 712A.19b(3)(g).

We also affirm the termination of respondent father’s parental rights pursuant to MCL 712A.19b(3)(h), which contains the same elements as statutory subsection (g), with the additional requirement that “[t]he parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years” MCL 712A.19b(3)(h). As we have already noted, respondent father would not be released for at least 20 months from the time of the termination order. He will then be required to carry out a parent-agency agreement that requires him to obtain and maintain adequate housing and employment, complete parenting classes, and engage in individual therapy. Even if respondent father were to carry out all aspects of the agreement promptly and successfully, it appears more than reasonable to assume that the process would require a period exceeding four months. Therefore, the trial court did not clearly err by finding that respondent father was incarcerated for such a time that the child would be deprived of a normal home for a period exceeding two years. *Id.* Finally, because the remaining

elements of statutory subsection (h) are the same as those found in statutory subsection (g), which was adequately established, any erroneous reliance on statutory subsection (h) was harmless. *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 268 (1992).

The trial court also did not clearly err by finding that there was a reasonable likelihood that the child would be harmed if returned to the care of respondent father. MCL 712A.19b(3)(j). Respondent father engaged in domestic violence against respondent mother, resulting in his incarceration on at least two occasions. Because he has not addressed this problem during his current incarceration, it is reasonable to believe that this problem would continue to exist if the child were returned to respondent father. There can be no dispute that it is harmful for a child to be exposed to domestic violence. Therefore, the trial court did not clearly err by terminating respondent father's parental rights under statutory subsection (j).²

Finally, the record supplies no indication that termination of respondent father's parental rights is contrary to the best interests of the child, MCL 712A.19b(5), as respondent father has no relationship with him and will be incarcerated until at least January 2009.

Affirmed.

/s/ Christopher M. Murray
/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder

² Statutory subsection (c)(i) is not applicable to respondent father, who was not a respondent at the time of adjudication or disposition, and who did not execute an affidavit of paternity and receive a parent-agency agreement until February 2007, approximately three months before the termination order. See MCR 3.977(B)(2); MCR 3.903(A)(7).