

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROOSEVELT HENDRIX III and
AARON TYRELLE QUALLS II, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARY J. EVANS,

Respondent-Appellant,

and

ROOSEVELT HENDRIX and AARON T.
QUALLS,

Respondents.

UNPUBLISHED

January 29, 2008

No. 279265

Wayne Circuit Court

Family Division

LC No. 05-441436

Before: Beckering, P.J., and Sawyer and Fort Hood, JJ.

PER CURIAM.

Respondent Mary J. Evans appeals as of right from the trial court orders terminating her parental rights to the minor child Aaron pursuant to MCL 712A.19b(3)(c)(i), (g), (j), and (k)(i)¹ and to the minor child Roosevelt pursuant to MCL 712A.19b(3)(g) and (i). We affirm.

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, the trial court must terminate the respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

¹ Petitioner concedes on appeal that termination of respondent's parental rights pursuant to MCL 712A.19b(3)(k)(i) was not appropriate.

Aaron became a temporary ward of the court because respondent left him in the care of a friend and was gone for a significantly longer time than she indicated that she would be gone. Additionally, the minor child did not have a change of clothes, respondent did not provide the caretaker with his breathing machine or instruct her on appropriate medical care for his bronchitis/asthma, and respondent did not provide the caretaker with a way to contact her. The minor child had to be taken to the hospital to receive appropriate medical care for his condition.

Respondent was given the opportunity to work on a parent agency agreement and was referred for various services. Respondent had almost two years to work on her treatment plan, yet at the time of the termination trial, she was not in substantial compliance with the parent agency agreement. Although respondent had made some progress by starting parenting classes and beginning individual therapy, there were many other requirements that she did not fulfill. Respondent was required to submit to random weekly drug screens, yet over almost a two-year period she submitted only three, and the drug screen taken on the originally scheduled termination trial date was positive for marijuana. Respondent also did not have a legal source of income, she did not have appropriate housing, and she had not maintained regular contact with the agency. At the trial, respondent testified regarding significant medical problems that she dealt with over the course of the proceedings, but she did not inform the worker that these were issues at the time and did not provide any other evidence that these medical problems hindered her progress on her treatment plan.

The trial court did not err when it found that MCL 712A.19b(3)(c)(i), (g), and (j) were met with regard to Aaron and terminated respondent's parental rights to this child. Respondent had been given every opportunity to show the trial court that the conditions that led to adjudication no longer existed. At the time of the termination trial, after almost two years, respondent did not have a home or income to support the minor child, she was still using marijuana, and she had not even completed her parenting classes.

The testimony was clear that respondent visited Aaron on a consistent basis and that there was a bond between the two of them. In spite of that bond, the trial court did not clearly err when it found that it was not clearly contrary to the best interests of Aaron to terminate respondent's parental rights. MCL 712A.19b(5). Aaron was almost three years old at the time of the termination trial and had been in temporary care for almost two years. Before that time, respondent had left him in the care of a friend on several occasions for extended periods of time. Aaron deserved to grow up in a stable environment, and respondent was unable to provide that for him.

The trial court did not clearly err when it terminated respondent's parental rights to Roosevelt pursuant to MCL 712A.19b(3)(g) and (i). The trial court heard the proofs with regard to respondent's parental rights to Aaron first and made a finding terminating respondent's parental rights to Aaron before the court heard the proofs with regard to respondent's parental rights to Roosevelt. The evidence clearly showed that respondent's rights to Roosevelt's sibling were terminated due to serious and chronic neglect and prior attempts to rehabilitate respondent were unsuccessful. Moreover, based on respondent's care of Aaron, and the fact that respondent did not substantially comply with her treatment plan, the evidence was clear and convincing to show that there was no reasonable likelihood that she would be able to provide proper care and custody of Roosevelt within a reasonable time.

The trial court also did not clearly err in its best interests determination with respect to Roosevelt. MCL 712A.19b(5). Like his older brother, Roosevelt deserved a stable environment, which respondent was unable to provide.

Affirmed.

/s/ Jane E. Beckering
/s/ David H. Sawyer
/s/ Karen M. Fort Hood