

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DARRICK ANTHONY MOSS II,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LATISHA R. MOSS,

Respondent-Appellant,

and

DARRICK MOSS,

Respondent.

UNPUBLISHED

March 11, 2008

No. 281693

Ingham Circuit Court

Family Division

LC No. 05-001101-NA

Before: O’Connell, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent¹ appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

On appeal, respondent argues that the requisite statutory grounds for termination were not established. We disagree. To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355-356; 612 NW2d 407 (2000). “Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests.” *Id.* at 354; see also MCL 712A.19b(5). We review for clear error both the trial

¹ The child’s father, Darrick Moss, is not included in this appeal, so our reference to the singular “respondent” refers solely to respondent-appellant.

court's decision to terminate parental rights and its determination of the child's best interests. MCR 3.977(J); *Trejo, supra* at 356-357.

The trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g). Respondent was unable to demonstrate she could maintain proper employment, suitable housing, and a drug-free lifestyle in the nearly 2 ½ years that Darrick was in foster care. Respondent argues that the trial court should not have required her to submit drug screens because she proved herself drug-free when Darrick was briefly returned to her care in August 2006. As the court correctly noted, however, the orders for drug screens remained in effect for the six-week period when Darrick was returned to respondent's care under a special court program. In short, respondent was never free of the obligation to assure the court she was maintaining a drug-free lifestyle. Given respondent's extensive history of drug use, which was one of the original bases for Darrick's adjudication, and her high stress situation facing eviction with three children in her care,² it was reasonable for the court to want assurance that respondent did not relapse into drug abuse.

Merely six weeks after Darrick's return home, respondent voluntarily returned him to foster care. For nearly six months after that, respondent was absent from court proceedings and did not participate in services. Respondent missed fourteen drug screens and was aware that missed screens were considered by the court to be positive. Respondent's failure to comply with the treatment plan was circumstantial evidence of her incapacity to provide proper care and custody for Darrick. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Additionally, respondent had obtained housing only the week before the permanent custody hearing and had not even moved into the proposed apartment yet. Therefore, respondent never established suitable housing. Similarly, she only obtained employment one month before the permanent custody hearing. In light of respondent's history, these last minute efforts were not sufficient to demonstrate she could provide or maintain proper care and custody for Darrick. Because the trial court properly found that grounds for termination under MCL 712A.19b(3)(g) were established by clear and convincing evidence, the trial court correctly ruled that the state's interest in protecting Darrick superseded respondent's right to the child's control and custody. *Trejo, supra* at 355-356.

Respondent argues that the court overlooked the bond between her and Darrick when it made its determination of Darrick's best interests. We disagree. Respondent did not maintain contact with her foster care caseworker, so the caseworker never had an opportunity to observe the relationship between Darrick and respondent. In contrast, Darrick was very attached to his foster care provider and referred to her as "ma." From the time Darrick was removed from respondent's care, she had custody of Darrick for only a short six-week period, compared to the extensive time he spent in foster care. There were also extended periods of time in which respondent's whereabouts were unknown and she simply failed to visit the child. Under the circumstances, the trial court did not clearly err in concluding that Darrick's bond with

² Darrick was returned to respondent's care in August 2006 at the same time his half brothers, Kevin and Kurtis Reed, were sent to live with respondent by their father who moved out of state.

respondent was not so strong that it would be against his best interest to terminate respondent's parental rights. *Id.* at 356-357.

Affirmed.

/s/ Peter D. O'Connell
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher