

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KAMYRA FLETCHER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NANCY FLETCHER,

Respondent-Appellant.

UNPUBLISHED

May 29, 2008

No. 280405

Wayne Circuit Court

Family Division

LC No. 01-405097-NA

Before: Servitto, P.J., and Cavanagh and Kelly, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to the minor child. Because the statutory grounds for termination were met by clear and convincing evidence, and termination was not contrary to the minor child's best interests, we affirm.

The minor child was placed under the jurisdiction of the court shortly after her birth, based upon allegations that the minor child tested positive for marijuana at birth and that respondent's parental rights to her five other children had previously been terminated. Respondent's parental rights to the minor child were ultimately terminated on August 14, 2007 pursuant to MCL 712A.19b(3)(g), (i), (j), and (l).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent's parental rights to five other children were terminated in 2005, after she failed to benefit from services. Substance abuse was identified as an issue in the prior proceedings, and respondent's fifth child tested positive for marijuana at the time of his birth in March 2005. The child at issue in this case was born in April 2007, and tested positive for marijuana at birth. Respondent also failed to obtain prenatal care during her pregnancy with the child. Respondent's continued use of marijuana while pregnant with her sixth child, despite being aware of the risk of harm it posed to the child, and her failure to obtain prenatal care during her pregnancy, demonstrate that the prior attempts to rehabilitate respondent were unsuccessful. Additionally, respondent's failure to benefit from past services and her continued willingness to expose the child to harmful substances demonstrate that there is no reasonable expectation that she will be able to provide proper care and custody within a reasonable time,

and that there is a reasonable likelihood that the child will be harmed if returned to respondent's home.

Because petitioner was requesting termination at the initial dispositional hearing, it was not required to offer respondent a treatment plan with the goal of reuniting her with the child, particularly considering that it had offered her services in the past and she failed to benefit from those services.

Respondent also argues that termination of her parental rights was contrary to the child's best interests, but her argument is principally based on policy arguments, not an evaluation of the child's best interests in this case. Once a statutory ground for termination has been proven, "the court shall order termination of parental rights . . . unless the court finds that termination of parental rights to the child is clearly not in the child's best interests." MCL 712A.19b(5). The court is to decide the "best interests" question from all of the evidence presented, without regard to which party presented the evidence. *In re Trejo*, 462 Mich 341, 352-354; 612 NW2d 407 (2000). The trial court's best interests decision is also reviewed for clear error. *Id.* at 356-357.

In this case, the child tested positive for marijuana at birth, and was removed from respondent's custody shortly after birth. Evidence was presented that after the child's removal, respondent tested positive for marijuana on several occasions. The evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. Therefore, the trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Deborah A. Servitto
/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly