

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DE'RYAN CHRISTOPHER
JONES, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ARLETTE JONES,

Respondent-Appellant.

UNPUBLISHED

June 3, 2008

No. 282655

Wayne Circuit Court

Family Division

LC No. 04-432791-NA

Before: Davis, P.J., and Murray and Beckering, JJ.

PER CURIAM.

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

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 Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at 355-357; *Sours, supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller* 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337.

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i). At the time of the adjudication, respondent had an extensive history of abusing marijuana and alcohol. Respondent also had no residence as she had been evicted from her apartment due to nonpayment of rent. She was unemployed and had no means of supporting her children. By the time of the permanent custody hearing, respondent had not demonstrated that she had stopped using drugs. Respondent admitted she had not had

independent housing in over three years. She was then living in Washington, D.C. with her brother in his two-bedroom home. Although respondent claimed she was employed at points during the case, she never provided verification of this employment and by the time of the permanent custody hearing she was without a job and using Aid for Dependent Children to support herself and her newborn daughter.

Termination of respondent's parental rights pursuant to MCL 712A.19b(3)(g) was also appropriate. Respondent's failure to completely comply with her treatment plan demonstrated her failure and inability to provide proper care and custody. "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Respondent's treatment plan required her to submit random drug screens, participate in individual and family counseling, obtain housing, and obtain employment. In 2006, respondent submitted 12 of the 52 requested drug screens and some of the submitted drug screens were positive for marijuana. In 2007, respondent submitted only three drug screens (in January and February) even though she was asked to submit 42 drug screens that year. Respondent also stopped attending therapy in September 2007. She had not obtained independent housing. She was unemployed and therefore unable to shelter or financially support De'Ryan.

Although respondent attended parenting classes, visited her children, and attended substance abuse treatment, she did not benefit from the services according to her caseworkers. Respondent never demonstrated improved parenting skills or that she had stopped using drugs despite her participation in inpatient and outpatient drug treatment. The evidence did not show that respondent had sufficiently benefited from her treatment plan. It is not enough to merely go through the motions; a parent must benefit from the services offered so that she can improve her parenting skills to the point where the children would no longer be at risk in her custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

Lastly, the court did not err in terminating respondent's parental rights under MCL 712A.19b(3)(j). De'Ryan would have been at risk in respondent's care given her history of untreated marijuana use and her inability to properly care for, to house, and to support him. According to the foster care worker, respondent's psychiatric evaluation revealed that she had been diagnosed with schizophrenia and depression. Respondent denied she was schizophrenic. Respondent had not seen her psychiatrist since October and was not taking any medication despite recommendations that she should be. Respondent's untreated mental health issues posed additional risk of harm to De'Ryan. There was no evidence that respondent benefited from her treatment plan and respondent did not demonstrate improvement or a commitment to parent. Respondent's move to Washington, D.C. and her poor judgment in failing to submit drug screens and fully comply with her treatment plan demonstrated a lack of commitment and parental fitness that would subject De'Ryan to risk of harm in her care.

Finally, the trial court did not clearly err in its best interests determination. There was no evidence in the record that it was not in De'Ryan's best interests to terminate respondent's parental rights. To the contrary, the evidence established there could not have been a significant bond between respondent and De'Ryan because the four-year-old child had been living with his grandmother since he was just over one year old. In failing to fully comply with her treatment plan and show that she had overcome her substance abuse issues, respondent demonstrated that making herself available to care for and parent De'Ryan was not her priority.

Respondent argues that no evidence was presented showing that De’Ryan would be harmed by remaining with his maternal grandmother until respondent could fully comply with the plan. Respondent’s argument does not show that termination of her parental rights was contrary to De’Ryan’s best interests. It is not in De’Ryan’s best interests to bond with a parent who is uncommitted. A best interest finding requires more than lack of harm if court jurisdiction and relative placement were to continue. *Trejo, supra*, 462 Mich at 356-357. Contrary to respondent’s contention, she was unable to parent De’Ryan because she had not demonstrated that she was no longer using drugs and because she did not have housing or employment. “If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent.” *In re Terry* 240 Mich App 14, 28; 610 NW2d 563 (2000), quoting *In re AP*, 728 A2d 375, 379 (Pa Super, 1999).

Affirmed.

/s/ Alton T. Davis
/s/ Christopher M. Murray
/s/ Jane M. Beckering