

Court of Appeals, State of Michigan

ORDER

In re MacArthur Minors

Docket No. 281032

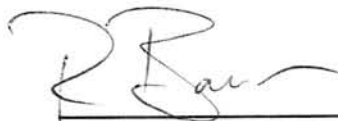
LC No. 06-000248-NA

Richard A. Bandstra
Presiding Judge

E. Thomas Fitzgerald

Jane E. Markey
Judges

The Court orders that the motion for reconsideration is GRANTED, and this Court's opinion issued April, 24, 2008 is hereby VACATED. A new opinion is attached to this order.



Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 19 2008

Date



Chief Clerk

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHAYANNE NICOLE
MACARTHUR and CHRISTOPHER ROY
MACARTHUR, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANGELIQUE HANKINSON,

Respondent-Appellant,

and

CLIFFORD MACARTHUR,

Respondent.

UNPUBLISHED

June 19, 2008

No. 281032

St. Clair Circuit Court

Family Division

LC No. 06-000248-NA

ON RECONSIDERATION

Before: Bandstra, P.J., and Fitzgerald and Markey, JJ.

MEMORANDUM.

Respondent Hankinson appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination had been proved by clear and convincing evidence. *In re Archer*, 277 Mich App 71, 73; 744 NW2d 1 (2007). Respondent failed to provide proper care or custody for her children in part by routinely leaving them with others without providing for their financial support. In particular, she left her children with her stepfather, David Gapinski. Gapinski had a history with Children's Protective Services, and had been substantiated multiple times for physical and sexual abuse. As a result of that abuse, respondent and her siblings had been temporary court wards for five years. It was due to that record that Gapinski's request for guardianship over respondent's children had been denied. Nevertheless, respondent remained convinced that Gapinski did not present a risk of harm to the children, and had previously stated that she would leave the children with him again. Although respondent testified during the termination hearing that she would not allow the children to stay with Gapinski, the court did not believe that testimony, and there was evidence

that respondent had allowed the children to visit with him. Given that the issue of child safety was never resolved despite respondent's participation in services for a year, it was not likely that respondent would be able to provide proper care and custody within a reasonable time. Further, because respondent refused to recognize the risk of harm that Gapinski presented, wanted to maintain his relationship with the children, and had stated that she would leave the children with him again, it was likely that the children would be harmed if returned to respondent's custody.

Further, the trial court's findings regarding the children's best interests are not clearly erroneous. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence showed that the children were subjected to unstable living conditions and were often left in the care of others. Even assuming that they had developed some bond with respondent through regular visitation, the evidence showed that they did not do well in respondent's care. They were not supervised properly, and were exposed to domestic violence between the parents as well as inappropriate sexual activity between others. Both children were abnormally aggressive. The older child had other problems that necessitated counseling, and the problems only subsided after visitation ceased. In fact, the child expressed a desire to "forget about" her parents. The evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. *In re Trejo, supra* at 354.

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey