

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRADEN DENEZ WALKER,
MARTEZ DESHAWN WALKER, MARCEUL
DANTÉ WALKER, and DANILO LAVAR
WALKER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

UNPUBLISHED
August 19, 2008

v

CHERYL ANNETTE WALKER,

Respondent-Appellant,

No. 283843
Wayne Circuit Court
Family Division
LC No. 06-461629-NA

and

WALTER ARMSTRONG and CLARENCE
OLIVER,

Respondents.

Before: Schuette, P.J., Zahra and Owens, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to the minor children 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 was using drugs and did not have housing or income. By the time of the permanent custody hearing, respondent continued to be without suitable housing and had been on a waiting list for housing for two years. Respondent also had no source of income, insisting that she could not work even though she had been denied social security disability benefits.

Respondent had not benefitted from or participated in services offered by petitioner prior to adjudication and she had not fully complied with the services ordered by the court by the time of the permanent custody hearing. Respondent did not complete parenting classes and failed to demonstrate improved parenting skills, having only visited her children one time. Respondent failed to complete drug treatment or counseling, and did not present any proof she had overcome her longstanding drug problem.

Termination of respondent's parental rights was also appropriate pursuant to MCL 712A.19b(3)(g). Respondent was unable to provide proper care of the children because she did not have suitable housing, employment, or a source of income. Further, respondent's failure to comply with her treatment plan is evidence of her failure to provide proper care and custody for her children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Respondent claimed her physical ability was limited due to an ankle injury. This injury, which she claimed prevented her from being able to work, would also likely interfere with and limit her ability to raise four active boys. Additionally, an evaluation of respondent indicated that her behavior is unlikely to change in the foreseeable future and her prognosis is devastatingly poor.

The trial court also did not err in terminating respondent's parental rights under MCL 712A.19b(3)(j). There was no evidence presented to the trial court that the children could safely be returned to respondent's care because the conditions that led to the initial adjudication continued to exist and because respondent showed no insight into the reasons why her children were before the court. Additionally, since there is no evidence that respondent addressed her substance abuse or improved her parenting skills, the children would likely be at 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 the children's best interests to terminate respondent's parental rights. To the contrary, the evidence established there was not a significant bond between respondent and the children. Respondent's failure to send gifts to the children or visit with them on more than one occasion while they were in relative care served to undermine any bond with them. Respondent's failure to visit or contact the children on a regular basis made it clear that she was not committed to parenting them. "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/ Bill Schuette
/s/ Brian K. Zahra
/s/ Donald S. Owens