

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LATRECE CARR and  
KIAHANA COOK, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CARMELIA PAYNE,

Respondent-Appellant.

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UNPUBLISHED

September 16, 2008

No. 284383

Oakland Circuit Court

Family Division

LC No. 07-729107-NA

Before: Whitbeck, P.J., and Bandstra and Donofrio, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care and custody), and (j) (child will be harmed if returned to parent).<sup>1</sup> Because the trial court did not err in determining that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence and did not err in finding that termination of respondent's parental rights was not clearly contrary to the children's best interests, we affirm. This appeal has been 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 of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions leading to adjudication were respondent's addiction to substances and failure to benefit from prior services, the children's physical, medical and educational neglect, the physical and sexual abuse of the children, and an environmentally unfit home. These conditions constituted respondent's failure to provide proper care and custody of the children. More than 182 days elapsed between the initial disposition and the termination hearing.

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<sup>1</sup> The trial court also terminated the parental rights of the children's father, Curtis Carr, but he has not appealed that decision and is not a party to this appeal.

The evidence showed respondent suffered from mental illness and had a 15-year history of substance abuse, recovery, and relapse. She completed substance abuse treatment six months into this 14-month proceeding and reported that she remained sober for six months before the termination hearing. However, she did not remain in close contact with her caseworkers and did not present to them evidence of clean drug screens that would have entitled her to visits with the children. She did not begin counseling until after the supplemental petition requesting termination was filed. By the time of the termination hearing she had not begun parenting classes, submitted random drug screens, acquired housing suitable for the children, or a legal source of income. Based on this evidence, the trial court properly found that, although respondent had treated her mental health and substance abuse issues for a short period of time, she had not rectified the housing, financial, and parenting conditions that led to adjudication, was not yet able to provide proper care or custody for the children, and given her history was not likely to do so within a reasonable time.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent's and the children's psychological evaluations were conducted to aid the trial court in its best interests determination. Respondent's evaluation showed she was no longer taking her medication as prescribed and had used cocaine once after the termination hearing. There was no reasonable likelihood that respondent would sustain her recovery and become able to regain custody of the children. The oldest child's evaluation showed she realized respondent was not yet able to properly parent. The guardian ad litem stated that the oldest child's desire for reunification was based on dislike of the rules and structure in her foster home. The younger child was ambivalent about return to respondent. Given the evidence, the trial court correctly found termination was not clearly contrary to the children's best interests.

Respondent raises for the first time on appeal the argument that the supplemental petition seeking termination of her parental rights was defective on its face because it merely cited the statutory grounds upon which termination was sought without alleging supporting facts. Unlike an original petition, the extent and nature of the facts to be alleged in a supplemental petition are not described by statute or court rule. This Court has held that due process considerations require that a respondent be informed of the allegations against her. *In re Slis*, 144 Mich App 678, 683-684; 375 NW2d 788 (1985). The supplemental petition listed the requirements of respondent's parent agency agreement, alleged her failure to comply with any of its requirements, and cited the statutory grounds upon which termination was requested. The supplemental petition was not deficient in adequately informing respondent of the allegations against her.

Affirmed.

/s/ William C. Whitbeck  
/s/ Richard A. Bandstra  
/s/ Pat M. Donofrio