

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SYBIL JORDAN and MYA
JORDAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DOROTHEA D. JORDAN,

Respondent-Appellant,

and

JAMES MURPHY and MICHAEL CYMONE,

Respondents.

UNPUBLISHED

October 14, 2008

No. 284688

Wayne Circuit Court

Family Division

LC No. 05-447844-NA

Before: Schuette, P.J., and Murphy and Fitzgerald, JJ.

PER CURIAM.

Respondent Dorothea D. Jordan appeals as of right from the court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (f), (g), (j), and (l). We affirm.

Due to respondent's drug addictions, the minor children were placed into a guardianship with their maternal grandmother for seven years. During that time, respondent's rights to another child were terminated in another protective proceeding. After the children's guardian/grandmother passed away in April 2007, respondent cared for the children but, in May 2007, an original permanent custody petition was filed and the children were placed with relatives. Respondent's parental rights to the two minor children were terminated in January 2008.

The trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g), (j), and (l).¹ MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612

¹ Termination was erroneously based upon MCL 712A.19b(3)(c)(i) since there had been no issuance of an initial dispositional order in this case. Basing termination on MCL

NW2d 407 (2000). The evidence established that respondent's drug addictions necessitated the guardianship arrangement in 2000 and that respondent never cared for the children on her own. According to respondent's sisters, the children's grandmother had always taken care of the children and, even when respondent resided in the grandmother's home during her illness, the children were safe only because respondent's brother also resided in the home. As such, the trial court did not clearly err when it found respondent failed in the past to provide proper care or custody for the children.

There was also no reasonable expectation that respondent would be able to provide such care in the future. Respondent provided conflicting information about her drug use. She testified she last used cocaine and marijuana in February 2007. However, her counselor testified that respondent declined to submit a drug screen in July 2007 because she admitted it would not be clean, which made the counselor strongly suspect that she had recently used cocaine. Respondent told the psychological evaluator that she last used cocaine in August 2007 and stopped using marijuana and alcohol in mid-September 2007, except for some wine on Thanksgiving. This conflicting information indicated a lack of truthfulness by respondent about her drug use and a lack of insight into the seriousness of her drug addictions, thus resulting in a poor prognosis for her rehabilitation. Because of respondent's unresolved drug problem, continuing inability to properly care for the children, and lack of appropriate housing and a source of income, the children faced a risk of harm if returned to her care. The fact of her earlier termination of parental rights to a child was not disputed during these proceedings.

Furthermore, the trial court did not clearly err in its determination regarding the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 353. A review of the whole record shows that the children preferred to be reunited with respondent. In addition, there was evidence that respondent visited the children in their relative placements, and those visitations were appropriate and demonstrated some bonding between respondent and the children. However, respondent had been in and out of their lives but had never been the children's primary caregiver. In addition, her drug problem remained unresolved. The children needed permanency in their lives that respondent was not yet able to provide.

Affirmed.

/s/ Bill Schuette
/s/ William B. Murphy
/s/ E. Thomas Fitzgerald

(...continued)

712A.19b(3)(f) also was improper since the guardianship was not in effect at the time of the permanent custody trial. However, these errors were harmless because the trial court properly based termination of respondent's parental rights on other statutory grounds. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).