

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICHOLAS WAYNE
WOOLMAN, SALINA MAE WOOLMAN,
MELANIE SALINA WOOLMAN, and
KATELYN MARIE WOOLMAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARSHA PHILLIPS,

Respondent-Appellant,

and

RICHARD WOOLMAN,

Respondent.

In the Matter of NICHOLAS WAYNE
WOOLMAN, SALINA MAE WOOLMAN,
MELANIE SALINA WOOLMAN, and KATELYN
MARIE WOOLMAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RICHARD WOOLMAN,

Respondent-Appellant,

and

UNPUBLISHED
November 18, 2008

No. 284362
St. Clair Circuit Court
Family Division
LC No. 06-000283-NA

No. 284364
St. Clair Circuit Court
Family Division
LC No. 06-000283-NA

MARSHA PHILLIPS,

Respondent.

Before: Zahra, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err by finding that statutory grounds for termination were established by clear and convincing evidence. See MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions of adjudication were the respondents' severe financial and housing instability. Throughout these proceedings, respondent mother has never been employed, while respondent father maintained a pattern of intermittent and brief employment, interspersed with roughly equal periods of unemployment, and was unemployed at the time of the termination trial. Both respondents were terminated from Work First because of noncompliance. Respondent father testified that he and respondent mother owed approximately \$1,800 in unpaid rent to one landlord and \$892 in rent to another landlord, and respondent father's future income would be garnished to repay the larger of these two debts. Since these proceedings began, respondents have had five separate residences. Clearly, the pattern of persistent employment and housing instability continued to exist. See MCL 712A.19b(3)(c)(i). In the face of this persistent pattern, respondents' recent acquisition of housing after the filing of the termination petition is inadequate to change this conclusion.

The trial court also did not clearly err by finding that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the ages of the children. See MCL 712A.19b(3)(c)(i). The evidence and testimony of respondents reflected a noticeable lack of understanding of the financial realities of their situation. For example, respondent father walked off his job and became unemployed only weeks before the birth of the respondents' fourth child, approximately eight months after these proceedings began. Respondent father, again unemployed at the time of the termination trial, considered his debt of \$1,800 already taken care of because of the existence of a garnishment order. He expected to be rehired in the near future at Black River Plastics, although higher management was currently reviewing his application because he had previously left the company by walking off the job. Respondent mother worked at community service because it was required where she lived, but she did not intend to seek paid employment. Given respondents' own representations at trial, it appears more than reasonable to believe that their past pattern of sporadic and inadequate income, with the attending pattern of unstable housing, frequent relocations, and mounting debts of unpaid rent, will continue in the foreseeable future.

The trial court also did not clearly err by terminating respondents' parental rights on the grounds that they failed to provide proper care and custody for the children, and there was no reasonable likelihood that they would be able to do so within a reasonable time considering the

ages of the children. See MCL 712A.19b(3)(g). Respondents failed to provide proper care and custody for the children before these proceedings by failing to maintain minimal stability of housing. Their failure to comply with the parent-agency agreement during these proceedings provides further evidence of their failure to provide proper care and custody. See *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). In addition to requiring the respondents to obtain stable income and housing, the parent-agency agreement required respondents to participate in the Special Parents program, designed to assist parents with a lower IQ who are having difficulty. Respondents did participate in the program, yet, according to their clinician, they never assimilated any of the information or advice that she provided over the two years she worked with them.¹ Respondents were also referred to couples counseling and participated for a time, but they were terminated for lack of progress. This Court has noted that a parent must do more than physically comply with a service agreement; the parent must also benefit from it. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

The trial court also did not clearly err by finding that there was no reasonable likelihood that respondents would be able to provide proper care and custody for the children within a reasonable time considering their ages. See MCL 712A.19b(3)(g). In addition to their persistently unstable income and housing, respondents' ability to meet the needs of the four children, all ages three or under at the time of termination, also continued to be a concern. Although the foster care worker addressed with respondents the need to make themselves aware of Salina's medical issues,² respondent father testified that he was not really familiar with her treatments because respondent mother was the primary caregiver, and respondent mother was unaware of several of the specialists that Salina sees. The parents had difficulty describing Salina's heart condition beyond stating its name and had difficulty elaborating on it or identifying its consequences. Respondents' failure to improve their grasp of Salina's conditions during these proceedings suggests that they will not do so within the reasonable future. The respondents were offered extensive services, including the Special Parents program, which foster care worker Kristin Taylor characterized as one of the most intensive available. Yet Ms. Tweedie-Stapleton of that program testified that she had never seen her advice assimilated and could not think of a single thing she had suggested that respondents had used. After reviewing the record, we are not left with a definite impression that the trial court made a mistake by finding that there was no reasonable likelihood that respondents would be able to provide proper care and custody for the four young children within a reasonable time considering their ages, *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000), and we therefore find no clear error in its decision.

The same evidence that establishes MCL 712A.19b(3)(c)(i) and MCL 712A.19b(3)(g), equally indicates that there is a reasonable likelihood that the children would be harmed if

¹ Ms. Tweedie-Stapleton worked with respondents for approximately one year before the commencement of these proceedings and for one year subsequent to the commencement of the proceedings.

² Salina has Down syndrome and has extensive medical needs that will continue into the foreseeable future.

returned to respondents, MCL 712A.19b(3)(j); thus, the trial court did not clearly err by terminating the parental rights of respondents under this statutory subsection.

Finally, the trial court did not clearly err by finding that termination of respondents' parental rights was not clearly contrary to the best interests of the children. See MCL 712A.19b(5). These parents do love their children, and their interactions with the children, according to both Ms. Tweedie-Stapleton and Ms. Taylor, are loving and appropriate. However, the parents unfortunately appear unable to maintain minimal stability in their lives because of respondent father's pattern of brief employment alternating with unemployment and respondent mother's failure to seek employment. The parents also failed to fully understand the special needs of Salina and could not meaningfully discuss her conditions beyond naming them. Both Nicholas and Salina have flourished in foster care. Nicholas has exhibited great development in speaking since being placed in foster care. Although this case is a sad one, we are not left with a definite and firm impression that the trial court made a mistake in its best interests determination. See *In re Terry*, *supra*.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter