

**STATE OF MICHIGAN
COURT OF APPEALS**

In the Matter of DA'QUAUN HALL, SAMIYA
MARIE SK'I O'NEAL, and XAVIER DESHAWN
EARL FULLER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KENYATTA CASSANDRA O'NEAL,

Respondent-Appellant,

and

DEQUAUN LYNN HALL, a/k/a
DA'QUAN LYNN HALL, a/k/a
DAQUAN LYNN HALL,
OLIVER NEVERS, and
SIDNEY EARL FULLER,

Respondents.

In the Matter of DA'QUAUN HALL, SAMIYA
MARIE SK'I O'NEAL, and XAVIER DESHAWN
EARL FULLER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SIDNEY EARL FULLER,

Respondent-Appellant,

and

KENYATTA CASSANDRA O'NEAL,
DEQUAUN LYNN HALL, a/k/a DA'QUAN

UNPUBLISHED

January 8, 2009

No. 285820

Wayne Circuit Court

Family Division

LC No. 00-385398-NA

No. 285821

Wayne Circuit Court

Family Division

LC No. 00-385398-NA

LYNN HALL, a/k/a DAQUAN LYNN HALL, and
OLIVER NEVERS,

Respondents.

Before: Zahra, P.J., and O’Connell and Fort Hood, JJ.

PER CURIAM.

In these consolidated appeals, respondent mother Kenyatta O’Neal appeals as of right from the order terminating her parental rights to the three minor children under MCL 712A.19b(3)(c)(i), (g), and (j), and respondent father Sidney Fuller appeals as of right from the same order terminating his parental rights to Xavier under MCL 712A.19b(3)(a)(ii), (c)(i), (g), (j), and (k)(i). We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding clear and convincing evidence to terminate respondent O’Neal’s parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). MCR 3.977(J); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). Samiya was born positive for marijuana, and respondent O’Neal failed to cooperate with Families First. A parent-agency agreement (PAA) required respondents O’Neal and Fuller to attend therapy, parenting classes, and drug screens, and have suitable housing and income. Respondent O’Neal was additionally to participate in a substance abuse assessment and therapy plus domestic violence therapy. Respondent O’Neal did not substantially comply with her PAA. She was unable to stop smoking marijuana and continued living in a domestically violent home with respondent Nevers, the putative father of Samiya. Respondent O’Neal made little progress on her treatment goals for domestic violence and substance abuse. A parent must benefit from services in order to be able to provide a nurturing home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). Respondent O’Neal also had inconsistent attendance at visitations and treated Samiya roughly and said she did not want the child on one visit. While she argues on appeal that her caseworkers should have referred her to an inpatient substance abuse program, and that she could not go to the program she was referred to because they would not accept a client with a job, the testimony of caseworker Halfman was that respondent O’Neal did not go to the suggested inpatient therapy. Later, respondent O’Neal was referred to other programs, but she had poor attendance and made little progress. While the changes in caseworkers may have caused some delay in referrals, respondent O’Neal was referred to programs that could have helped her stop using drugs and leave her domestically violent relationship.

Turning to respondent Fuller, the trial court clearly erred in finding clear and convincing evidence to establish the statutory grounds for termination under MCL 712A.19b(3)(a)(ii) and (k)(i). Respondent Fuller completed parenting classes, attended some court hearings and therapy appointments, and testified to his love for Xavier. Although he only visited seven times, he did not “desert” the child or “abuse” him by “abandoning” him under subsections (a)(ii) and (k)(i). Although the question is close, the evidence also was not clear and convincing under MCL 712A.19b(3)(j) to show a reasonable likelihood that Xavier would be harmed if returned to

Fuller's home. Had Fuller been more proactive in complying with his PAA, the trial court would have given him more time and seriously considered his home as a possible placement.

However, the trial court did not clearly err in finding clear and convincing evidence to terminate respondent Fuller's parental rights under MCL 712A.19b(3)(c)(i) and (g). MCR 3.977(J); *Trejo, supra*. Only one statutory subsection need be proven by clear and convincing evidence to terminate parental rights. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Respondent Fuller failed to provide proper care and custody by being gone for the first three years of Xavier's life and then by failing to visit regularly and to sufficiently comply with the court's requirements for improvement. Respondent Fuller's only drug screen was positive for marijuana, and he attended therapy infrequently and did not achieve his treatment goals. On appeal, respondent Fuller explains his lack of participation by pointing to a stroke he suffered in April 2007 and his lack of funds for transportation. However, both respondents were provided with bus tickets. Respondent Fuller was not visiting Xavier regularly before his stroke, and he was able to drive and get rides from his mother at the time of the final hearing. His own lack of initiative or determination to play a significant part in his son's life was the primary factor leading to termination of his parental rights.

We also find no error in the trial court's conclusion that termination of respondent O'Neal's and Fuller's parental rights were not clearly contrary to the children's best interests. MCL 712A.19b(5); MCR 3.977(J); *Trejo, supra* at 353, 355. The children need a permanent, safe, stable home with parents who are drug-free and interested in providing for their welfare. Despite many services, respondents O'Neal and Fuller failed to overcome their problems sufficiently to be able to provide a safe, nurturing home.

Affirmed.

/s/ Brian K. Zahra
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood