

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of CRYSTAL SUE ANN MARTIN,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LAVONNE CUMMINS,

Respondent-Appellant,

and

TERRY ALAN MARTIN,

Respondent.

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UNPUBLISHED

January 20, 2009

No. 285130

Genesee Circuit Court

Family Division

LC No. 05-119211-NA

Before: Talbot, P.J., and Bandstra and Gleicher, JJ.

PER CURIAM.

Respondent Lavonne Cummins appeals as of right from the court order that terminated her parental rights pursuant to MCL 712A.19b(3)(c)(i), (ii), (g), and (j).<sup>1</sup> We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in determining that at least one statutory ground for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). The adjudicating conditions included respondent's mild mental retardation and inability to provide a safe home environment for the child. A diagnosis of mental health problems/personality disorders does not by itself warrant termination of parental rights. See *In re Boursaw*, 239 Mich App 161, 170-174, 177; 607 NW2d 408 (1999), overruled in part on other grounds *Trejo*, *supra* at 353 n 10; *In re Hulbert*, 186 Mich App 600, 602, 605; 465 NW2d 36 (1990). Rather, the evidence must clearly and convincingly show that the parent's mental health

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<sup>1</sup> This order also terminated the parental rights of the child's father but he has not appealed.

issues adversely affected the minor child and that the parent had not altered his or her harmful behavior.

In this case, psychologists concluded that respondent's mild mental retardation rendered her incapable of parenting the child with any measure of effectiveness or providing for the child's safety. Respondent's mental health therapist also agreed that respondent was unable to parent independently. As one psychologist testified, respondent's developmental disability could not be changed through treatment or medication, and the end result was that she had the abilities of a child who was ten years, seven months old. In addition, by the time of the hearing on permanent custody, respondent continued to struggle with providing a safe environment for the child and with the related problems of domestic violence and being involved with abusive and/or manipulative friends. According to respondent, she had ended her relationship with an abusive boyfriend, now barred all overnight guests, and her company was good to her. However, respondent also admitted that she continued to maintain a relationship with a person with whom she had been involved in an altercation that resulted in a call to the police, and she also professed ignorance that another acquaintance was a convicted sex abuser of children. In the opinion of the mental health therapist, respondent's problems with these issues were related to respondent's developmental disability. Respondent's interactions with these manipulative or dangerous people placed her at physical, emotional, and financial risk and, if the child were placed in that environment, she too would be at risk. Finally, the foster care worker testified that respondent failed to comply with key aspects of the parent/agency agreement despite respondent's wholehearted efforts.

Based on the proffered evidence, the trial court did not clearly err when it found that the adjudicating conditions had not been rectified and there was no reasonable likelihood that they would be rectified within a reasonable time given the child's age. Further, the trial court did not err in finding there was no reasonable expectation that respondent would be able to provide proper care and custody for the child within a reasonable time given the child's age, and there was a reasonable likelihood that child would be harmed if returned to respondent's home.<sup>2</sup>

Finally, the trial court did not clearly err in its determination regarding the child's best interests. MCL 712A.19b(5)<sup>3</sup>; *Trejo, supra* at 353. The child was nine years old by the time of the hearing and had not been in respondent's custody for approximately four years. According to the foster care worker, the child loved respondent but had expressed a desire not to participate in

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<sup>2</sup> Even though it was unclear what was the "other condition" referred to by the court when it based its order upon MCL 712A.19b(3)(c)(ii), any error was 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).

<sup>3</sup> MCL 712A.19b(5) has been amended, effective July 11, 2008, to require that the trial court make an affirmative finding that termination of a parent's parental rights is in the best interest of the child. 2008 PA 199. The amended statute does not affect the instant case because the termination order was entered on April 12, 2008.

visitations. Based on the child's need for security and stability, the trial court did not clearly err when it found that termination was in the child's best interests.

Affirmed.

/s/ Michael J. Talbot  
/s/ Richard A. Bandstra  
/s/ Elizabeth L. Gleicher