

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of JADIE LOWDER and J'LAH  
LOWDER, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CYNTHIA LOWDER,

Respondent-Appellant,

and

MICHAEL WHITE,

Respondent.

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UNPUBLISHED

January 27, 2009

No. 285629

Jackson Circuit Court

Family Division

LC No. 05-002310-NA

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

PER CURIAM.

Respondent Cynthia Lowder appeals as of right the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). 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 were established by clear and convincing evidence and that the children's best interests did not preclude termination of respondent's parental rights. *In re Trejo*, 462 Mich 341, 353, 355; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).<sup>1</sup>

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<sup>1</sup> MCL 712A.19b(5) was amended, effective July 11, 2008, to require that, in order to terminate parental rights, a trial court must affirmatively find both that at least one statutory ground for termination has been established and that termination is in the children's best interests. However, because the order terminating respondent's parental rights was issued on May 7, 2008, the prior version of MCL 712A.19b(5), requiring that a trial court order termination of parental

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Respondent contends that the actual condition that led to adjudication no longer existed. The original petition alleged that marijuana, cash, and weapons were found in respondent's home. At the time of the termination hearing, illegal substances continued to be a problem. The foster care worker believed that respondent was under the influence during a visit with the children. He further testified that respondent was offered 17 screens in the three months before the final termination hearing but had failed to report for any of them. The foster care worker also testified that he believed there was no reasonable likelihood that respondent would be able to reunify her family within the next few months, noting that it had been seven months since the previous termination hearing and there had been no change. Such evidence supports the trial court's finding that the condition that led to adjudication continued to exist and that there was no reasonable likelihood that the condition would be rectified within a reasonable time considering the children's ages.

Respondent also argues that the court terminated her parental rights because of some "minor setbacks" and without the consideration of all the good things she had done. Evidence revealed that respondent did not comply with the drug screen requests. At the time of the final termination hearing, the foster care worker did not know where respondent was currently living. He noticed that another vehicle was picking her up from the visits with the children and discovered that the vehicle belonged to an individual who had an extensive record of using and selling drugs. Further, the worker had no verification of legal income for respondent. The worker also opined that the children would be at risk of harm if returned to respondent's care because they had already witnessed respondent using drugs, a lot of people coming into the home, and the younger child's father choking respondent. The evidence thus supports a finding of failure to provide care and custody in the past, unlikelihood of providing proper care and custody within a reasonable time, and likelihood of harm to the children if they were returned to respondent's home.

Respondent next contends that termination was not in the children's best interests. We acknowledge that there were times during this case when respondent was actively participating in services offered to her. However, respondent was not consistent with such participation. Specifically, respondent acknowledged that she had a positive drug screen and that she missed 13 drug screens. At the time of the final termination hearing, respondent also admitted that the home she was living in was not large enough for her children. In addition, respondent had not provided verification of a legal source of income. The trial court did not err in its best interests determination or in ordering termination of respondent's parental rights.

We affirm.

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

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(...continued)

rights if at least one statutory ground for termination is established, unless it finds that termination is clearly not in the child's best interests, remains applicable to the determination whether termination of respondent's parental rights was appropriate in the instant case.