

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LATTREL LEVANDUSKI,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHRISTINA MARIE LEVANDUSKI,

Respondent-Appellant.

UNPUBLISHED

April 7, 2009

No. 288541

Eaton Circuit Court

Family Division

LC No. 08-016813-NA

Before: Wilder, P.J., and Meter and Servitto, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

Termination is appropriate under MCL 712A.19b(3)(g) where the parent, “without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.” Respondent had a long-term problem with alcohol that eventually led her to become addicted to crack cocaine. Evidence was presented that respondent had used crack cocaine for up to two years prior to the termination hearing. As respondent’s substance abuse problem worsened, she and the child were living in utter squalor.

The apartment was filled with filth and clutter. The child’s bedding was dirty and grimy; cigarette butts and other debris covered the floors; the bathtub was mildewed and there was standing waste in the toilet; litter boxes overflowed with cat feces; maggots were observed on the stove; and rotting food was found in the refrigerator. There was no fresh food in the house. The child was frequently left alone and often looked to his grandmother for his meals and for help doing laundry.

Respondent lost a job that she had held for seven years because she had gone on a three-day drug binge. The loss of the job resulted in the nonpayment of rent and loss of housing for respondent and the child. Respondent’s loss of income caused her to spiral even further out of control.

Respondent was arrested for stealing from friends or family members and her counsel negotiated a sentence agreement of six months in the county jail. She began serving her sentence during the termination hearing (which took place over the course of several months).

Respondent was the payee of the child's Social Security checks. While the child was temporarily placed with the maternal grandmother, the maternal grandmother asked respondent for the Social Security funds in order to provide for the child. Respondent kept the proceeds from the child's Social Security.

When the Department of Human Services began their investigation of the child's living conditions in January 2008, respondent was given the opportunity to remedy the deplorable conditions existing in the home. Respondent made no effort to improve the living conditions for her son. Furthermore, respondent failed to contact the Children's Protective Services investigator despite several efforts on the part of the investigator to meet with respondent. When contact was finally made, DHS had made the decision to seek termination of respondent's parental rights, however, a petition had yet to be filed. Despite the knowledge that a petition seeking termination was forthcoming, respondent did not follow through on referrals for services and when she eventually obtained a substance abuse assessment, denied a need for treatment.

Given all of the above, the trial court did not clearly err in finding that MCL 712A.19b(3)(g) was established by clear and convincing legally admissible evidence. MCR 3.977(E)(3); *In re Utrera*, 281 Mich App 1, 7; ___ NW2d ___ (2008). For the same reasons, there was no error in the trial court's finding that the ground set forth in MCL 712A.19b(3)(j) was also established by clear and convincing evidence.

Further, the evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). While respondent and the child undoubtedly loved one another, respondent's persistent drug use and inability to provide for the child's most basic needs- appropriate shelter and food- are a clear indication that termination was in the child's best interests. The trial court did not err in terminating respondent's parental rights to the child. *Id.* at 356.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Patrick M. Meter
/s/ Deborah A. Servitto