

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of YOLANDA MARIE DINKINS,
ELIZA LEESHA HARRIS FLETCHER,
SHANERRA MONIQUE FLETCHER,
MA'KAYLA TANIECE FLETCHER, and
MIYAH NICOLE FLETCHER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHERRA MARIE FLETCHER,

Respondent-Appellant,

and

TIMOTHY LEWIS DINKINS,

Respondent.

UNPUBLISHED

May 21, 2009

No. 288716

Wayne Circuit Court

Family Division

LC No. 84-243590-NA

Before: Fitzgerald, P.J., and Talbot and Shapiro, JJ.

PER CURIAM.

Respondent Sherra Marie Fletcher appeals by right the trial court order terminating her parental rights to the minor children under 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 ordering termination of respondent's parental rights. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005); MCR 3.977(J). To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence and that termination is in the best interests of the children. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991); MCL 712A.19b(5).

The conditions that led to the adjudication were respondent's cocaine addiction and neglect of her children, who were doing poorly in school and had poor attendance. Respondent had been given treatment and other services in the past, including at least seven drug treatment

programs, which she had either failed to attend or relapsed shortly after completion. At the time of the termination trial, which took place 23 months after the children had been removed, respondent had been released from an inpatient program two months earlier; she had not attended the follow-up treatment, had not complied with the requirements for drug screens, counseling, and attendance at NA, had not maintained contact with the agency, and did not have housing or employment. Thus, there was clear and convincing evidence that the conditions that led to the adjudication continued to exist and there was no reasonable likelihood that they would be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(i). Furthermore, a parent's failure to comply with the treatment plan is evidence of a parent's failure to provide proper care and custody for the child and can be a valid indication of neglect. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003); *In re Trejo*, 462 Mich 341, 360-363; 612 NW2d 407 (2000). Because of respondent's noncompliance with the treatment plan and relapses into drug abuse, there was also clear and convincing evidence to support the conclusion that she could not provide proper care or custody for her children within a reasonable time. MCL 712A.19b(3)(g). This same evidence establishes a reasonable likelihood that the children would be harmed if returned to her care. MCL 712A.19b(3)(j).

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 356-357. After two years in foster care, these children needed permanency, stability, and hope for the future. During this time, respondent had not complied with the treatment plan. She had not maintained a period of non-drug use sufficient to demonstrate that, this time, she would not relapse and continue her cocaine addiction. She had not obtained housing or a legal income, continuing her years of dependency on state agencies and others to provide her with housing and the necessities of life. She had neglected her children in the past because of her drug addiction. There was no reasonable likelihood that she would be able to provide for the care and custody of her children within a reasonable time. The trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Finally, respondent argues that the trial court committed reversible error when it admitted evidence that four of her older children, not at issue in this appeal, had criminal convictions and were currently incarcerated. We disagree. Because respondent did not object to the admission of this evidence at trial, we review for plain error affecting her substantial rights, i.e., that it affected the outcome of the lower court proceedings. *People v Carines*, 460 Mich 750, 762-764; 597 NW2d 130 (1999); *Hilgendorf v St John Hosp and Medical Center Corp*, 245 Mich App 670, 700; 630 NW2d 356 (2001). Under MCR 3.977(G)(2), all relevant and material evidence may be received by the court at a termination hearing and may be relied upon for its probative value. How a parent treats one child is probative, though not determinative, of probable future treatment of another child. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). Therefore, evidence of her older children's criminal histories was probative of the impact of respondent's neglect stemming from her long history of cocaine addiction on the children at issue. Thus, its admission did not constitute plain error. Moreover, without this evidence, there remained clear

and convincing evidence sufficient to support the statutory grounds for termination.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Michael J. Talbot

/s/ Douglas B. Shapiro