

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of REAVE XAVIER SIMONDS and  
PHOENIX SIMONDS, Minors.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TAWNYA SIMONDS,

Respondent-Appellant,

and

JOSHUA SIMONDS,<sup>1</sup>

Respondent.

---

UNPUBLISHED

June 16, 2009

No. 289606

Ingham Circuit Court

Family Division

LC No. 08-001970-NA

Before: O'Connell, P.J., and Bandstra and Donofrio, JJ.

MEMORANDUM.

Respondent, Tawnya Simonds, appeals as of right from the trial court order terminating her parental rights under MCL 712A.19b(3)(j) (reasonable likelihood based on the capacity of the parent that the children will be harmed if returned to the parent) and (m) (parent's rights to another child were voluntarily terminated following the initiation of proceedings). Because the trial court did not clearly err in finding that petitioner established the statutory grounds for termination of parental rights by clear and convincing evidence and that termination was in the best interests of the children, we affirm.

The trial court's findings of fact may not be set aside unless they are clearly erroneous, and this Court shall give regard to the trial court's special opportunity to judge the credibility of witnesses who appeared before it. MCR 2.613(C).

---

<sup>1</sup> The trial court also terminated respondent father's parental rights. He is not participating in this appeal.

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). It was established that respondent did not provide for the medical needs of her children. Reave, who received social security benefits because of a heart issue, was not given his medication, and respondent did not take Phoenix to a follow-up appointment following her hospitalization, despite being provided bus passes. Further, there was testimony that respondent was inattentive to her children, did not provide proper supervision, and said several times that she did not want her children. Therefore, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if returned to respondent's home. Finally, there was no dispute that petitioner established that respondent voluntarily released her parental rights to her other children notwithstanding nearly two years of services after neglect proceedings were instituted in New Hampshire.

The trial court also did not clearly err in determining that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(J). Respondent argues that the court should have offered her services, including a psychological evaluation, before terminating her parental rights. However, respondent was previously, and recently, provided with reunification services in New Hampshire and failed to benefit from the services. She testified that she wanted her children to be cared for by their father and that she wanted to remain a part of their lives. Both of petitioner's witnesses testified that respondent made statements that she did not want the children. Although there was a bond between respondent and her children, she could not care for them and did not want to care for them. MCL 712A.19b(4) allows the trial court to terminate parental rights at the initial disposition hearing, if the petitioner so requests, as petitioner did here. Of course, the trial court could have found that termination was not in the children's best interests and ordered respondent to complete services, including a psychological evaluation, but the court did not clearly err in finding that termination was in the children's best interests at the initial disposition hearing.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Richard A. Bandstra  
/s/ Pat M. Donofrio