

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DARRIOUS BRANCH,
NAKISHA BRANCH, DOTIQUILLA PATTON-
HOWARD, QUICANETTE HORTON,
ZOREONA MIRICILE HORTON, and
CLEVLAND WADE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STACIE TENEAL HORTON,

Respondent-Appellant,

and

MCMILLON BRANCH, MUSTAFA
REYNOLDS, ROBERT HOWARD, and JUSTIN
WILLIAMS,

Respondents.

UNPUBLISHED

June 30, 2009

No. 289749

Berrien Circuit Court

Family Division

LC No. 2007-000065-NA

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

MEMORANDUM.

Respondent Stacie Horton appeals as of right from the trial court's order terminating her parental rights to her minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Termination is appropriate under § 19b(3)(c)(i) when "the parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds" that "conditions that led to the adjudication continue to exist and there is no reasonable likelihood

that the conditions will be rectified within a reasonable time considering the child's age." The children were taken into foster care when respondent could not care for or provide for them, and they remained in foster care for two years. At the end of that time, respondent was still often overwhelmed during parenting time, was unable to consistently parent the children, was still homeless, and she did not have permanent employment. There was no indication that she would improve within a reasonable amount of time to the point where she would be able to adequately care for her children. The trial court did not clearly err in finding that termination was warranted under § 19b(3)(c)(i).

Termination is appropriate under § 19b(3)(g) when "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." There was no question that respondent loved her children. But it was apparent from her history with child protective services, spanning over 13 years, that she had never been able to develop consistent parenting skills. Her first child was taken from her and adopted by her father, four of her children had serious behavioral problems, and she had given one child away at birth. She was unable to maintain consistent employment or adequate housing, nor did she take seriously the requirement that she exhibit freedom from substance abuse. The trial court did not clearly err in finding that termination was warranted under § 19b(3)(g).

Termination is appropriate under § 19b(3)(j) when "there is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." Again, despite respondent's occasional efforts to become an appropriate parent, she had not been able to demonstrate that she could care for herself or consistently parent her children. Four of the children had behavioral problems that respondent did not understand and could not handle, and one had physical problems stemming from prenatal drug exposure. At the end of two years of services, respondent failed to demonstrate an understanding of the children's needs or an ability to meet them. She could not demonstrate that her children would be safe in her home. Further, she had been unable to establish freedom from drug use and did not exhibit the control over her children that would be necessary to keep her older children from harming her younger children.¹ The trial court did not clearly err in finding that termination was warranted under § 19b(3)(j).

Further, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5);² *In re Trejo, supra* at 356-357. Even beyond the two-year period involved in this case, respondent had never demonstrated that she could provide a proper home for the children. The children needed

¹ Respondent's oldest son had been accused of attempting to sexually abuse his younger sister, and her older daughter had a history of violence.

² Respondent incorrectly asserts that the trial court failed to apply the amended version of § 19b(5), which requires the court to affirmatively find that termination of parental rights is in a child's best interests before termination may be ordered. The trial court expressly stated that it was required "to give due consideration to still whether or not termination is in the best interest of the minor children."

stability and attention to their special needs. Termination of respondent's parental rights was in their best interests, and the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

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