

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TIYLER ALTON GIBBS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ALTON AUGUSTUS GIBBS,

Respondent-Appellant,

and

ASHA CHERRON WITHERS,

Respondent.

In the Matter of TIYLER ALTON GIBBS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ASHA CHERRON WITHERS,

Respondent-Appellant,

and

ALTON AUGUSTUS GIBBS,

Respondent.

Before: Borrello, P.J., and Meter and Stephens, JJ.

UNPUBLISHED
September 3, 2009

No. 288043
Wayne Circuit Court
Family Division
LC No. 96-349450-NA

No. 289161
Wayne Circuit Court
Family Division
LC No. 96-349450-NA

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), (j), and, with respect to respondent-mother only, MCL 712A.19b(3)(i). We affirm.

To terminate parental rights, the trial court must first find that at least one of the statutory grounds set forth in MCL 712A.19b(3) was proven by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory basis for termination is established, the court must terminate parental rights if it also finds that termination is in the child's best interests. MCL 712A.19b(5). This Court reviews for clear error the trial court's findings that a basis for termination was established and that termination of parental rights is in the child's best interests. MCR 3.977(J); *In re Trejo Minors*, *supra* at 356-357.

With regard to respondent-father, the conditions leading to the adjudication were his past criminal sexual conduct conviction and his inappropriate housing. Although there was evidence that respondent-father complied with several aspects of his treatment plan, the record contained clear and convincing evidence that he did not complete individual therapy to address his past criminal sexual conduct, but instead was terminated from therapy early due to lack of cooperation and nonattendance. There was further evidence that respondent-father continued to live with his brother, who was also a convicted sexual offender. On the basis of this evidence, the trial court did not clearly err in finding that the statutory bases for termination of respondent-father's parental rights set forth in MCL 712A.19b(3)(c)(i), (g), and (j) were proven by clear and convincing evidence.

The evidence also established that termination of respondent-father's parental rights was in the child's best interests. The child never lived with respondent-father and, while the child enjoyed seeing respondent-father at visitation, the evidence established that they did not share a strong bond. In the 15 months that the child was in foster care, respondent-father did not fully address the issues concerning him that brought the child into care. On the basis of this evidence, we find no clear error in the court's best-interests determination.

With regard to respondent-mother, the issues leading to the adjudication were her substance abuse, her criminal history, and the prior termination of her parental rights to three other children. She argues on appeal that petitioner failed to ensure that she received proper treatment and medication for her bipolar disorder and that, with proper treatment, she would have been able to stay off drugs and comply with her treatment plan. In addressing this issue, we note the evidence that respondent-mother underwent a psychological evaluation in jail in the months before the permanent custody hearing and received a recommendation that she obtain individual counseling, but not medication, for her disorder. In addition, there was evidence that petitioner could not refer respondent-mother for counseling because of her frequent incarcerations and inpatient drug-treatment stays. Furthermore, in light of the evidence that respondent-mother's parental rights to three other children were terminated in the past due primarily to her substance abuse, that she did not resolve her longstanding substance-abuse problem in the 15 months the child at issue in the present case was in foster care, and that she continued her criminal lifestyle throughout the pendency of this case, we find no clear error in

the trial court's finding that the statutory grounds for termination set forth in MCL 712A.19b(3)(c)(i), (g), (i), and (j) were proven by clear and convincing evidence with regard to respondent-mother. We also find no clear error in the court's finding that termination of respondent-mother's parental rights was in the child's best interests, in light of the foregoing evidence and in light of testimony evidencing the lack of a strong bond between the child and respondent-mother.

Affirmed.

/s/ Stephen L. Borrello

/s/ Patrick M. Meter

/s/ Cynthia Diane Stephens