

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KINYETTA OLIVIA LA'SHAE
SHELTON, A'ZARIAH IYONA SHELTON-
DAVIS, ARI QUINTON DAVIS, ARIYANNA
NICOLE DAVIS, and RA'SHAE ASIANAE
DAVIS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHAQUETA LA'SHAE SHELTON,

Respondent-Appellant,

and

RUSSELL RASHARD DAVIS,

Respondent.

UNPUBLISHED

January 5, 2010

No. 292363
Macomb Circuit Court
Family Division
LC No. 2007-000493-NA

Before: Murphy, C.J., and Jansen and Zahra, JJ.

PUR CURIAM.

Respondent Shaqueta Shelton appeals by right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

The trial court did not clearly err by 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); *In re Sours*, 459 Mich 624, 633; 533 NW2d 520 (1999).

¹ Although respondent asserts that the trial court also terminated her parental rights under § 19b(3)(c)(ii), the trial court did not cite that statutory ground in its decision.

The children entered foster care in August 2007, after respondent left them on a street corner and requested financial assistance in caring for them. Respondent was then living with her father, a convicted sex offender who had sexually assaulted respondent when she was a child. The trial court assumed jurisdiction over the children in September 2007. Respondent was ordered to comply with a parent-agency agreement (PAA), which required psychiatric and psychological evaluations and counseling, parenting classes, appropriate parenting skills, visitation, a substance-free lifestyle, resolution of legal issues, and suitable housing and income.

Over the next year and a half, respondent failed to substantially comply with the PAA. She was incarcerated until late November 2007, and then did not begin services until 2008. She failed to visit the children until April or May 2008, which she attributed to a lack of transportation and scheduling conflicts. In early 2008, respondent spent some time in a mental health facility. She received a substance abuse assessment and counseling through that facility, completed a psychological evaluation and parenting classes, and was visiting the children.

However, respondent's progress did not continue. She stopped visiting and going to counseling, missed most drug screens, and tested positive for pain medication that was prescribed to another person. The caseworker explained the importance of visitations and services, but respondent did not resume participation. In February 2009, she was laid off from her job. She last visited the children in January 2009.

The trial court terminated respondent's parental rights in May 2009, emphasizing her failure to consistently visit the children or follow through with counseling and other services. A respondent failure to comply with a PAA is evidence of her inability to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Further, a parent must benefit from services to be able to provide a safe, nurturing home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). In this case, the trial court found that respondent did not substantially comply with her PAA and failed to sufficiently benefit from the services she received. Although respondent argues that she was complying with services and merely needed more time to improve, the record belies these arguments. While respondent did make some positive gains, she stopped complying with services altogether and did not see her children during the three months before the termination hearing. In addition, this was not the first time respondent had been unavailable for her children. As the trial court found, respondent lacked a realistic plan to care for the children. The evidence showed that she failed to benefit sufficiently from parenting classes and counseling, and would be unable to do so within a reasonable time to provide proper care and custody. Also, the children would be at risk of harm if returned to respondent's home. MCR 3.976(E)(1); *In re Trejo, supra* at 346 n 3, 360-361 n 16. The trial court did not clearly err by finding that statutory grounds for termination contained in §§ 19b(3)(c)(i), (g), and (j) had been proven by clear and convincing evidence.

Respondent also argues that termination of her parental rights was not in the children's best interests. MCL 712A.19b(5), as amended by 2008 PA 199, required the trial court to affirmatively find that termination of respondent's parental rights was in the children's best interests. The record contains no such finding. However, the trial court did make findings regarding the children's best interests, referring to their ages and need for stability, as well as respondent inability to provide a proper home. Because the trial court's findings demonstrate that termination was in the children's best interests, and the record clearly shows this to be true,

any error in failing to make the necessary affirmative finding was harmless. *In re Hansen*, 285 Mich App 158, 165; 774 NW2d 698 (2009); see also MCR 2.613(A).

Affirmed.

/s/ William B. Murphy

/s/ Kathleen Jansen

/s/ Brian K. Zahra