

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of A.F.H., M.K.H., K. L. H., J.D. B.,  
and S.N.B., Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHRISTY HINOJOSA,

Respondent-Appellant,

and

ERIC WALKER and ALAN GRIMSLEY,

Respondent.

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UNPUBLISHED

May 6, 2010

No. 295457

St. Clair Circuit Court

Family Division

LC No. 07-000248-NA

Before: TALBOT, P.J., and FITZGERALD and M.J. KELLY, JJ.

PER CURIAM.

Respondent Christy Hinojosa appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g) [failure to provide proper care and custody] and (j) [risk of harm to children if returned to parental home].<sup>1</sup> We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

“In order to terminate parental rights, the trial court must find that at least one of the statutory grounds of MCL 712A.19b . . . has been met by clear and convincing evidence.” *In re*

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<sup>1</sup> On appeal, respondent also contends error regarding termination of her parental rights pursuant to MCL 712A.19b(3)(b). We note that although the November 24, 2009, order lists this statutory subsection as a basis for termination, this appears to be a clerical error in the order as the petitioner did not allege or seek termination pursuant to this subsection in its petitions. Because we find the trial court correctly terminated respondent’s parental rights under the remaining two cited subsections, we need not address this error in the wording of the trial court’s order. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003).

*McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The trial court must also find clear and convincing evidence that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). This Court reviews a trial court's factual findings in an order terminating parental rights for clear error. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

On March 24, 2009, a police drug task force executed a drug raid at respondent's residence. Respondent's boyfriend, Antoine Brown, was the target of the raid. Respondent was not at home at the time of the raid, but her children were present. Respondent left her 13-year-old daughter and her teenaged friends to baby-sit the three younger children. During the raid, the police found dealers' quantities of crack cocaine in the freezer of the refrigerator in the kitchen and on the bathroom floor, some Vicodin pills and marijuana roaches in an ashtray, and \$400 folded into \$100 packs in a purse in the main floor bedroom. Brown was caught fleeing out the back door of respondent's residence. Deputy Michael Garvin interviewed Brown, who stated that respondent was his girlfriend and that he stayed at her home frequently. Brown admitted that the drugs were his and that he had been selling them out of respondent's residence. Brown indicated that the room where the money was found was respondent's bedroom.

The trial court did not clearly err in determining that the statutory bases for termination had been proven by clear and convincing evidence. At the time of the raid, the children had just recently been returned to respondent's care upon dismissal of a previous child protection case. The workers had warned respondent about spending time with Brown and the risk of permitting him to spend time in the presence of her children. Respondent and Brown attempted to downplay their relationship when speaking with the assigned caseworkers and to obscure Brown's identity when he was found at respondent's residence. Despite the warnings and concerns expressed and having been informed of Brown's drug-related criminal history, respondent continued to expose her children to Brown's routine presence in the home. Consequently, respondent subjected her children to a drug raid in their home. The evidence established that Brown and respondent were in a dating relationship for a year before the raid and that he was at respondent's home on a daily basis, frequently spent the night, and maintained items of clothing at that location. Respondent acknowledged that Brown divided his time between her house, his grandmother's, and his sister's.

At the termination hearing, respondent testified that she believed Brown when he told her that he never brought or used drugs at her house until the day of the drug raid. Yet, Garvin testified that the drug task force had purchased drugs from Brown at respondent's residence before the raid occurred. Brown told Garvin that he was dealing the drugs out of respondent's home. Brown also admitted to smoking marijuana in respondent's living room while the children were present before the police raided the home. However, respondent still expressed a belief that Brown was truthful when he denied ever having previously brought drugs into her home until the day of the raid. Respondent justified her continued interaction with Brown because she believed that he was genuinely concerned about the wellbeing of her and the children, as demonstrated by his support in the court proceedings and efforts to substantiate her lack of knowledge or involvement with the presence of drugs in her residence.

Considering that this was the fifth time respondent's children were removed from her care and custody, combined with evidence of respondent's continued contact with Brown and her belief that he was truthful about his previous involvement in drug use at her home, the trial court

did not clearly err in determining the statutory bases for termination had been proven by clear and convincing evidence.

There was also clear and convincing evidence that termination was in the children's best interests. There was evidence that respondent loved her children and had previously worked diligently to regain custody. There was also evidence that the children loved respondent and wanted to remain with her. Respondent was angry with herself for subjecting her children to the drug raid, which resulted in yet another separation for her children. Respondent had maintained her most recent employment for a period of almost 90 days. She had medical insurance available for the children. Respondent had a new residence and was up to date on her rent and utilities, and had sufficient income through her employment to pay for these necessities.

However, there was also clear and convincing evidence that respondent was subjecting her children to a chaotic and unstable lifestyle. At the time of the drug raid of her residence, respondent was not employed and she relied on Brown's assistance to pay her routine expenses. On the day of the raid, respondent left her 13-year-old daughter in charge of the three younger children. The teenage daughter also had friends present in the home. Respondent acknowledged that she was not familiar with at least one of her daughter's friends that were present. Brown arrived at the residence with three additional adults after respondent had left. Brown admitted to smoking marijuana in the living room while all the children were present. Eric Walker, the father of two of respondent's children, testified that when the children were taken from respondent's custody in 2007, he was unable to care for them because he was incarcerated for possession of cocaine. The police raid that initiated this petition constituted the fifth occasion necessitating removal of the children from respondent's custody and their placement in foster care. At the time of the termination hearing, respondent was still permitting her belief in Brown's veracity to override her responsibility to her children. Respondent's children deserved and needed permanence and stability in their lives. The trial court did not err in entering an order terminating respondent's parental rights.

Affirmed.

/s/ Michael J. Talbot  
/s/ E. Thomas Fitzgerald  
/s/ Michael J. Kelly