

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of C.M.S., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DOROTHY M. BAILEY,

Respondent-Appellant,

and

ANTHONY SHEPHERD,

Respondent.

In the Matter of C.M.S., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANTHONY SHEPHERD,

Respondent-Appellant,

and

DOROTHY M. BAILEY,

Respondent.

UNPUBLISHED

May 13, 2010

No. 294226

Wayne Circuit Court

Family Division

LC No. 03-426052-NA

No. 294227

Wayne Circuit Court

Family Division

LC No. 03-426052-NA

Before: CAVANAGH, P.J., and O'CONNELL and WILDER, JJ.

PER CURIAM.

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

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. See MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence clearly established that termination was in the child's best interests. See MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

There was clear and convincing evidence that respondent-mother's parental rights to two of the child's siblings had been terminated due to serious and chronic neglect, and prior attempts to rehabilitate respondent-mother had been unsuccessful. In February 2004, two of respondent-mother's children were placed in temporary court custody due to environmental neglect, medical neglect, drug exposure, failure to thrive, and respondent-mother's history of substance abuse. At that time, respondent-mother also had three other children who were in the care of the maternal grandmother who was their legal guardian. Respondent-mother admitted that her older child did not attend school regularly and that he was a grade behind as a result of his sporadic attendance. Respondent-mother had a history of cocaine and marijuana use and one of her children was born with a positive cocaine test. The children were placed with respondent-mother and petitioner provided her with services, which were not successful. Respondent-mother attended a drug assessment but did not follow through with the recommendations. She left treatment after 30 days and failed to submit any random drug screens because she admitted she was still using cocaine. Respondent-mother did not have housing or a legal income and she failed to visit her children. Respondent-mother's parental rights to the two children were terminated pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

In the instant case, respondent-mother admitted to cocaine use while she was pregnant with C.M.S. Respondent-mother did not have any income and did not have suitable housing. Because respondent-mother failed to address any of the issues that led to the termination of her rights to her other children, exposed this child to cocaine during her pregnancy, and could not support this child, the trial court did not err in finding that statutory grounds for termination of her rights to this child were established by clear and convincing evidence. Considering respondent-mother's prior terminations because of substance abuse and her continued substance abuse, the trial court also did not err in concluding that termination of respondent-mother's parental rights was in the child's best interests.

With regard to respondent-father, four days after the baby's birth the Protective Services investigator visited respondents at respondent-father's home to inform them that a petition was being filed. She informed respondent-father that the child could not be placed with respondent-mother. At that time, respondents were living together and because of that the child had to be placed in foster care. Respondent-father did not express any interest in planning without respondent-mother. Respondent-father was not employed at that time. At the termination hearing, respondent-father testified that he had six other children, ages 22, 20, 16, 12, 11, and 10.

He had worked for the post office for 17 years and paid child support for his children the entire 17 years. However, respondent-father quit his job at the post office because he said that the child support obligation took too much of his salary. After respondent-father quit his job, he was in arrears with his child support obligation and he began having criminal problems. Respondent-father took a job that paid in cash and he did not report his income so that he would not be subject to child support garnishment.

At the time of the termination hearing, respondent-father was incarcerated for violating his probation. He had past convictions for drug possession, uttering and publishing, and shoplifting. He was incarcerated twice in 2008. When he was released from jail this time, respondent-father planned to live in his mother's home where he had been living since 1981. Respondent-father stated that the child could share his bedroom with him. Considering that respondent-father did not initially seek custody of the child, his history of criminality and his current incarceration, and his failure to maintain legal employment in order to avoid paying child support, the trial court did not clearly in err in finding that statutory grounds to terminate respondent-father's parental rights had been established.

The trial court also did not clearly err in concluding that termination of respondent-father's parental rights was in the child's best interests. Respondent-father testified that he thought that he had a good father/child relationship with his six other children, and yet he only saw them "every couple of months" and did not support them. He was unemployed when the child was born, was incarcerated at the time of the termination hearing, and did not have a feasible plan for caring for the child. This young child deserved stability and permanency, which respondent-father was unable to provide. The trial court did not err in terminating respondent-father's parental rights.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Peter D. O'Connell
/s/ Kurtis T. Wilder