

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

June 10, 2010

In the Matter of D. J., Minor.

No. 294545

Macomb Circuit Court

Family Division

LC No. 2008-000087-NA

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Before: HOEKSTRA, P.J., and MARKEY and DAVIS, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(J). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and its best interests determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009).

The trial court did not clearly err in finding that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. At adjudication, the child's maternal grandfather had been his legal guardian for many years, but the guardianship had just been terminated. Respondent had not provided financial or emotional support for more than one year, was without stable housing or employment, and had a history of substance abuse. At the time of the termination hearing, the child still looked to his grandfather to fulfill his needs and had a stronger bond with his grandfather. Although respondent had stable housing, the trial court did not clearly err in finding that she had no legal source of income where respondent's explanation of her work was not plausible. In addition, respondent continued to have a substance abuse problem, never consistently provided drug screens as required, and submitted positive screens during the pendency of the proceedings. Therefore, the conditions of adjudication continued to exist at the time of termination. Further, respondent was not able to provide proper care and custody for her son. She made very little, if any, progress in therapy due to her nonattendance. The child was a special needs child for whom structure, consistency, and reliability were extremely critical. Respondent's failure to follow through with the parent-agency agreement showed her inability to provide these for her son.

There was no reason to believe that respondent would be able to rectify the conditions of adjudication, or provide proper care and custody, within a reasonable time considering the

child's age. She failed to follow the parent-agency agreement, and, in fact, her participation lessened as the termination hearing continued over several months. Respondent indicated no immediate plans to find legal employment and she used marijuana between proceedings.

The trial court also did not clearly err in its best interests determination where the child did not look to respondent to fulfill his needs, and his behavior improved when respondent did not visit. Respondent made little progress throughout the pendency of these proceedings and was not able to provide her son with the stability that he required.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

/s/ Alton T. Davis