

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

July 6, 2010

In the Matter of TURNER Minors.

No. 294211

Genesee Circuit Court

Family Division

LC No. 04-118459-NA

Before: SHAPIRO, P.J., and JANSEN and DONOFRIO, JJ.

PER CURIAM.

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

Termination of parental rights is appropriate where at least one statutory ground in MCL 712A.19b(3) is established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350, 356-357; 612 NW2d 407 (2000); *In re B&J*, 279 Mich App 12, 17; 756 NW2d 234 (2008). The court must then terminate parental rights if termination is in the children's best interests. MCL 712A.19b(5); *In re Hansen*, 258 Mich App 158, 163-164; 774 NW2d 698 (2009). This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *Trejo*, 462 Mich at 356-357; *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); *B&J*, 279 Mich App at 17.

Here, the trial court did not clearly err in finding clear and convincing evidence to terminate parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). The children came into care in 2004, were returned in August 2006, and jurisdiction was terminated in October 2006. In January 2008, the children had to be removed again, amid deplorable home conditions. The oldest child, then aged seven, was caring for his younger siblings, aged nine months to four years. Disposition was taken on February 26, 2008, and a parent agency agreement (PAA) was drafted requiring parenting classes, improved emotional stability, and suitable housing and employment. Over the next 18 months, respondent did not improve sufficiently to have the children returned.

Respondent argues that the trial court erred in failing to order financial aid, a psychological exam, and mental health services. We disagree.

Looking first at the psychological evaluation, the caseworker testified that the only reason she mentioned it was based on respondent's background and not because she thought respondent currently needed one. Furthermore, respondent had previously had an evaluation in

2005, which the trial court may have thought was recent enough. Also, as discussed more fully below, respondent never requested one or indicated to her worker or even the trial court that she had a psychological disorder that was preventing her from properly parenting her children and that she wanted to be evaluated. In fact, respondent testified that the only thing she asked for was financial help and that she was presently able to care for her children and meet all of their needs and wants. Given that the recommendation for an evaluation was based only on respondent's history and not on any belief that she was currently experiencing psychological problems that prevented her from properly parenting, we conclude that the failure to provide a new evaluation was not erroneous.

Looking next at the financial assistance issue, we also find no error. Respondent testified that under her current housing situation, her heat, electric, and other utilities were included in her \$200 per month rent payment. Assuming that was true, her unpaid Consumer's bill was not preventing her from obtaining proper housing. Additionally, respondent had a number of problems that had nothing to do with financial difficulty. For example, she finished her parenting class in October 2008 and had a parent aide who worked with her for several months. Yet, even with all that help, she could not keep her house minimally clean. Her inability to keep the house safe for her young children had nothing to do with her financial status. Although respondent testified that she didn't realize she had to provide samples for drug screening more than once a week, that failed to address why she provided only two samples in November 2008, or why she went from November 17, 2008 to March 3, 2009 with only a single sample provided between, on February 26, 2009. Moreover, as was pointed out during the hearing, respondent had been dealing with the system for 46 months, had been told at her review meetings every 90 days that she was missing required samples, and yet she still did not understand the process. Respondent testified that she had been told at the review hearings that she was failing to provide required samples, but she did not understand how that was possible. However, she apparently never questioned the staff. Instead, she kept doing it the way she thought and continued to miss required drug screens.

Respondent also testified that she was told if she needed something she needed to ask for it, but the evidence showed that she refused to ask questions, refused to ask for help, and refused to offer evidence that would help her. When respondent was questioned as to why she never requested help, she contradicted her previous testimony and answered that she was unaware she was supposed to ask. She was asked why she never contacted her caseworker to come out and review her current home to see if it was appropriate and she said she did not know she was supposed to ask. When asked why she never indicated she wanted her family in Georgia to watch the children, she said she had during a previous concluded termination proceeding, as though that request was somehow supposed to carry over into the new proceedings. She was asked whether she had a lease to prove her new rent and that she was not just living with a friend or tax returns to show her income and she said she did not bring them with her because she did not know she would need them.

Thus, the record reflects that the majority of respondent's problems were not financially related. We find no error.

As for respondent's contention that she should have been offered more services, there is nothing in the record that indicates any other services would have been helpful. Respondent had parenting classes that she completed, but failed to obtain benefit from. She was provided with a

parent aide to help her take pride in her home and keep it clean, but could not do so even with that help. As the caseworker testified, there were no other services to offer. Respondent either did not complete or did not follow through on those services she was provided and she had certainly had ample time to do so.

We agree with the trial court's statement to respondent that she was not ready to have her children returned to her:

[o]ne aspect of your testimony, which this Court finds to be, quite frankly, the basis of this case, that you were asked by your own attorney about if you were able to have your children with you today and why some of things that have not been rectified have, you know, the drug screens which have been missed, you know. And the court's not satisfied that that explanation overcomes your responsibility of following a Court order. But you said that, "If I had my kids back, my mindset would be totally different."

Unfortunately, I can't wait to return the kids to you and hope that that's the case. And I made note of that when you testified to that respect because I feel that the order of these happening ought to be the other way around. I ought to see that your mindset was different. I have to see that you have the ability to support these children. And unfortunately, I haven't—I don't have the ability to return your children to you today and again, hope that that would happen and that maybe your mindset would be different.

Ultimately, the record reflects that respondent showed insufficient benefit from the parenting classes and other services she was provided. A parent must benefit from services in order to be able to provide a nurturing home. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). We find no clear error.

We also find no clear error in the trial court's determination that termination was in the children's best interests. The children need a permanent, safe, stable home, which respondent could not provide. Although respondent had a bond with at least the older children, she did not overcome her problems to the point of being able to provide appropriate housing or a safe, nurturing home within a reasonable time. The children had been in foster care for most or all of their lives and needed permanency. The trial court did not clearly err in its best interests ruling.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Kathleen Jansen
/s/ Pat M. Donofrio