

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

July 15, 2010

In the Matter of C. FORD, N. FORD, G. FORD,  
and T. FORD, Minors.

No. 295938  
Genesee Circuit Court  
Family Division  
LC No. 06-121680-NA

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Before: TALBOT, P.J., and FITZGERALD and DAVIS, JJ.

PER CURIAM.

Respondent A. Woods appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) [conditions leading to adjudication continue to exist], (g) [failure to provide proper care], and (j) [reasonable likelihood of harm to child if returned to parent's home]. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

A trial court may terminate parental rights if it finds that a statutory ground for termination has been proven by clear and convincing evidence. MCR 3.977(G); *In re Trejo*, 462 Mich 341, 355, 360; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5).

The trial court did not clearly err in finding that § 19b(3)(c)(i) had been proven by clear and convincing evidence. The children came into care in September 2006 because of respondent's problems with substance abuse, criminal activity, inadequate and unstable housing, and domestic violence. The initial dispositional order was entered in February 2007. The supplemental petition was filed in July 2009, almost 2-1/2 years later. At that time, respondent had not yet completed substance abuse treatment and had tested positive for cocaine as recently as March 2009. Further, respondent had just been released from a residential re-entry program because of new criminal charges. Within two weeks, respondent was back in jail awaiting trial on yet other criminal charges that were not due to be resolved until January 2010. Although respondent participated in substance abuse classes while in jail, her continued incarceration prevented her from demonstrating that she benefited from the instruction by being able to refrain from drug use while in the community. Given that respondent's criminal behavior and substance abuse issues were still interfering with her ability to parent after more than two years, the trial court could properly find that the conditions that led to the adjudication were not likely to be rectified within a reasonable time given the children's ages.

In addition, the trial court did not clearly err in finding that § 19b(3)(g) had been proven by clear and convincing evidence. Respondent was unable to provide the children with proper care because of her substance abuse and criminal activity. She also left the children with their father, who was an unfit custodian. Respondent did little to comply with the service plan apart from visiting the children until she was sent to prison at the end of 2007. She completed parenting classes and domestic violence classes in prison, and allegedly completed substance abuse classes as well, but the substance abuse classes apparently had little impact because respondent tested positive for cocaine within a month of her release. Consequently, she was not permitted to continue in the Mustard Seed program, which would have assisted with housing and employment. Given these failures, hopes of speedy reunification vanished. Respondent then committed new criminal offenses, which resulted in her placement in a residential re-entry program and subsequently in jail. While respondent completed substance abuse classes in jail, she continued to deny that she had relapsed despite a positive drug test, and had yet to prove that she could refrain from drug use when outside of a restricted facility. Because the children had been out of respondent's care for over three years by the time of the hearing and respondent was once again incarcerated, the trial court could properly find that respondent was unlikely to be able to provide proper care and custody within a reasonable time given the children's ages.

The trial court also did not clearly err in finding that § 19b(3)(j) had been proven by clear and convincing evidence. Respondent had a serious substance abuse problem. She took no steps to address it until she went to prison at the end of 2007. Although she completed substance abuse classes, she never participated in a substance abuse evaluation and thus it was not known if such classes were sufficient to treat her addiction needs. Presumably they were not because respondent relapsed within a month of leaving prison and then, despite completing additional classes in December, she denied relapsing. The substance abuse problem contributed to the neglect that brought the children to the attention of CPS and finally into foster care. Because respondent failed to demonstrate that she had overcome her addiction, the trial court could properly find that the children were likely to be harmed if they were returned to respondent's custody.

Finally, the trial court did not clearly err in finding that termination was in the children's best interests. Respondent loved the children and was able to maintain a relationship with them until the court terminated her visitation pending respondent's participation in drug screens and treatment, a condition respondent never met. There was testimony that the children needed permanency and respondent's actions indicated that she could not fulfill this need. One of respondent's children had been out of respondent's care the majority of her young life and, given respondent's circumstances at the time of the hearing, was no closer to reunification than she had been when the initial petition was filed. There was also testimony elicited indicating that the three older girls had expressed a preference to move on with their lives, presumably meaning that they favored termination because they were discouraged and frustrated by respondent's failure to overcome her addiction and assume her parental responsibilities. Therefore, the trial court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Michael J. Talbot  
/s/ E. Thomas Fitzgerald  
/s/ Alton T. Davis