

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 16, 2010

In the Matter of K. M. L. OWENS, Minor.

No. 298135
Saginaw Circuit Court
Family Division
LC No. 09-031886-NA

Before: BECKERING, P.J., and JANSEN and TALBOT, JJ.

PER CURIAM.

Respondent mother appeals as of right the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent was 16 years old when this protective proceeding started, and the initial amended petition alleged that her immaturity and borderline range of intellectual functioning resulted in her being unable to appropriately and safely parent the child. By the time of the termination hearing, respondent had failed to complete any service provided to her by the Department of Human Services or Lutheran Child and Family Services, failed to consistently attend school; and had not sought a solution to her problem with transportation. As such, she continued to exhibit immature behavior and poor decision-making that prevented her from becoming an adequate parent for the child, and the trial court did not clearly err when it found the adjudicating condition continued to exist.

The court also properly found that there was no reasonable likelihood that the adjudicating condition would be rectified within a reasonable time considering the child's age. Respondent argues that, because she did not have the life skills or intellectual capacity to become emancipated, she therefore needed additional time to mature. This argument is without merit. The passage of the 14-month-long protective proceeding produced little to no improvement in respondent's maturity level, and there was no indication that her commitment to the reunification efforts would increase with time. In fact, the only thing that seemed to prompt respondent into action was the imminent termination hearing since she waited until the week before the termination hearing to restart her participation with therapy and substance abuse treatment. The evidence also indicated respondent failed to benefit from the few services she attended. Throughout the protective proceeding, respondent dawdled and wavered in her compliance with her treatment plan, thereby providing sufficient evidence for the court to find it was unlikely that she would mature any time soon even if provided additional time. The child was almost 17

months old by the time of the termination hearing, and it was untenable to ask him to wait in the hope that respondent would one day accept her parental responsibilities. As such, the trial court did not clearly err when it based its termination order upon MCL 712A.19b(3)(c)(i).

The evidence also showed that respondent, without regard to intent, failed in the past to provide proper care or custody for the child in that she failed to cooperate with numerous services, caused serious trauma to the child's brain when she dropped him, resided with the child in her boyfriend's home, which was an inappropriate environment for the child, and tested positive for marijuana use. Furthermore, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the child's age. Respondent made little to no progress despite receiving services while pregnant and throughout the protective proceeding. It is well established that a parent's failure to comply with a treatment plan is evidence of a failure to provide proper care and custody for the child. See *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). The child was young and at an impressionable developmental stage and could not wait indefinitely for respondent to mature. The trial court did not clearly err when it terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g).

Finally, the trial court did not clearly err in its determination regarding the child's best interests. *Trejo*, 462 Mich at 353. The trial court was required to order termination if it found that there were grounds for termination of parental rights and that termination of parental rights was in the child's best interests. MCL 712A.19b(5). A review of the whole record shows that the child entered foster care when he was two months old and had been in out-of-home care for practically his entire life. Although there was evidence of a bond between him and respondent, respondent was no closer to being able to adequately care for him than she had been when he was removed from her care. The fact that respondent was a minor herself did not remove her parental responsibility to provide for the basic needs of her child.

Affirmed.

/s/ Jane M. Beckering
/s/ Kathleen Jansen
/s/ Michael J. Talbot