STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ALBERT LEONTRACE BROWN, DELQUAN RESHAAD BORDEN, and MUTULA HUNTER HUSAIN, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

JENELL RENE TURNIPSEED,

Respondent-Appellant,

and

NOAH DELVERN BORDEN, AGANORIS LEONTRACE BROWN, and WALI HUSAIN,

Respondents.

UNPUBLISHED
March 16, 2004

No. 249230
Wayne Circuit Court
Family Division
LC No. 00-387299

Before: Griffin, P.J., and White and Donofrio, JJ.

PER CURIAM

Respondent appeals as of right from the circuit court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). Because the conditions that led to the children's adjudication still existed without a reasonable expectation that respondent would rectify the condition within a reasonable time, she was non-compliant with the parent-agency agreement, she demonstrated an inability to maintain safe and suitable housing or to provide a stable income that put the children at risk of future harm if returned to her care, and because termination of respondent's parental rights was not contrary to the best interests of the children, we affirm.

The circuit court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Contrary to respondent's argument, this case is clearly about more than poverty. It is about instability in employment, instability in housing, and instability in emotional health, all of which have affected the children for over three years. The conditions that led to adjudication were respondent's lack of employment, lack of housing, and lack of

emotional stability. From March 2000 to the start of trial on the second permanent custody petition in April 2003, respondent neither obtained nor maintained stable employment, housing, or emotional stability. The evidence went uncontraverted that respondent, although employed at numerous different jobs, was unable to maintain stable employment. Likewise, respondent was never able to maintain stable and suitable housing. She was evicted twice from different apartments and lived in a shelter on at least two different occasions. As for emotional stability, respondent never completed individual counseling, and failed to participate in any meaningful family counseling. As late as October 2002, respondent experienced depression to the point of not wanting to visit the children. The first permanent custody petition was dismissed in May, 2002, and continued efforts were employed in hope of reunification. However, another year passed without substantial success. The record as a whole does not suggest that the trial court clearly erred in finding that subsection 19b(3)(c)(i) had been satisfied by clear and convincing evidence.

Relying on *In re JK*, 468 Mich 202, 213-214; 661 NW2d 216 (2003), respondent contends that termination based on subsection 19b(3)(g) was clearly erroneous because she had substantially complied with her parent-agency agreement. While respondent-mother is correct that the Supreme Court concluded that a parent's compliance with the parent-agency agreement is evidence of the ability to provide proper care and custody, *Id.*, respondent-mother is incorrect in her assumption that this applies to her.

The record reveals that respondent failed to keep regular visitation, regular contact with her caseworker, and failed to attend all court hearings. Respondent failed to accomplish the focal points of her treatment plan: obtaining and maintaining stable employment and housing and regaining her emotional stability. To the contrary, it is respondent's failure to substantially comply with her parent-agency agreement that evidences her inability to provide proper care and custody. *In re Trejo*, 462 Mich 341, 360-363; 612 NW2d 407 (2000). The trial court did not clearly err in finding that the elements of subsection 19b(3)(g) had been established by clear and convincing evidence.

While respondent contends on appeal that no evidence was presented that any of her children would be harmed if returned to her care based on her conduct or capacity as required by subsection 19(3)(j), the record does not substantiate her contention. As detailed above, respondent had repeated difficulties maintaining stable housing for herself regardless of whether any of her children resided with her. She could not maintain stable employment, and failed to obtain appropriate treatment for her emotional disturbances. Attempts were made at reunification, but were short lived. Mutula was returned to respondent's care for less than four months before respondent found herself evicted, unemployed and emotionally distraught. Respondent's conduct over the past three years demonstrates that she was unable to care for herself, let alone four children. Accordingly, the trial court did not clearly err in finding that the elements of subsection 19b(3)(j) had been established by clear and convincing evidence.

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from the evidence on the whole record that termination is clearly not in the children's best interests. MCL 712A.19b(5): *Trejo, supra*, 462 Mich 353. The trial court's decision regarding the children's best interests is reviewed for clear error. *Id.* at 356-357.

Mutula was bonded to respondent and desired to return to her care, however, his post visit behaviors of acting out were both intense and aggressive. Delquan was a child with emotional issues and special needs, and he expressed the desire to remain with his foster "grandma." Albert had not established a bond with respondent. The benefits of behavior therapy for each of the children was subverted as a result of parental visits. The record evidence does not indicate that termination was clearly not in the children's best interests where the only evidence was the one-time desire to return to the home of respondent by one of the children.

Therefore, the circuit court did not err in terminating respondent-appellant's parental rights to the minor children.

Affirmed.

/s/ Richard Allen Griffin
/s/ Pat M. Donofrio