

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Justin Cahill-Harris, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHANATA HARRIS,

Respondent-Appellant.

UNPUBLISHED

March 30, 2004

No. 249461

Kent Circuit Court

Family Division

LC No. 01-074801-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Respondent appeals as of right the order terminating her parental rights to Justin Cahill-Harris. We affirm.

Respondent asserts that she was denied the effective assistance of counsel in the termination proceedings. The principles of effective assistance of counsel developed in the context of criminal law apply by analogy to child protective proceedings. *In re CR*, 250 Mich App 185, 197-198; 646 NW2d 506 (2002). To prevail on a claim of ineffective assistance, respondent must show that her counsel's performance was deficient, and the representation so prejudiced her that she was denied a fair trial. *People v Pickens*, 446 Mich 298, 338; 521 NW2d 797 (1994). To show prejudice, respondent must show that there was a reasonable probability that but for counsel's errors the result would have been different. *People v Johnson*, 451 Mich 115, 124; 545 NW2d 637 (1996).

Respondent has failed to overcome the presumption of effective assistance. She has not identified how counsel could have successfully challenged the adjudication. Counsel objected to the most serious allegations in the petition. Counsel consistently argued that additional services should have been provided for respondent, and that her caseworker was not properly assisting her. Respondent has not shown that counsel provided deficient representation that affected the outcome of the case.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that

persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*

MCL 712A.19b(3)(c)(i) provides for termination when the court finds that the conditions that led to the adjudication continue to exist and there is no reasonable likelihood that conditions will be rectified within a reasonable time, given the age of the child. MCL 712A.19b(3)(g) provides for termination when the court finds that the parent, without regard to intent, fails to provide proper care or custody for the child, and there is no reasonable expectation that the parent will be able to provide proper care within a reasonable time considering the child's age.

There is clear and convincing evidence to support the termination of respondent's parental rights under either statutory ground. The evidence showed that respondent failed to make progress in her treatment plan, and did not rectify the conditions that brought the child into care. Given the lack of progress, there was no indication that respondent would be able to provide proper care and custody within a reasonable time.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette