

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOHN'TEL DAYON MCGINNIS
and CORTNEY D'ELLIS KNOWLES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TONISHA DIANE EVANS a/k/a TOMISHA
DIANE EVANS,

Respondent-Appellant,

and

MICHAEL EDWARD MCGINNIS and
CORTNEY ADAM KNOWLES,

Respondents.

UNPUBLISHED

May 13, 2004

No. 251360

Wayne Circuit Court

Family Division

LC No. 01-400336

Before: Fitzgerald, P.J., and Jansen and Talbot, JJ.

MEMORANDUM.

Respondent Tonisha Diane Evans, a/k/a Tomisha Diane Evans, appeals as of right the September 12, 2003, order terminating her parental rights to the minor children, John'Tel Dayon McGinnis (dob: 12-29-1997), and Cortney D'Ellis Knowles (dob: 06-05-1999), pursuant to MCL 712A.19b(3)(c)(i) (the conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age); and (g) (without regard to intent the parent failed to provide proper care or custody). The court also terminated the parental rights of the children's fathers, but they are not at issue in this appeal. We affirm.

Respondent argues that the trial court clearly erred in finding that a statutory ground for termination were established by clear and convincing evidence. We disagree. We review the trial court's findings of fact for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). Only one statutory

ground for termination need be established. *In re Trejo, supra*. This Court reviews the trial court's decision regarding the children's best interests for clear error. *Id.*

In this case, the trial court took jurisdiction over the minor children in June 2001, after determining that respondent had left them in her father's care without necessary medical authorization and that respondent did not have suitable housing. The trial court dismissed an initial termination petition in October 2002, finding that respondent had made some progress on her treatment plan and affording her a further opportunity to regain custody of the children.

A second termination petition was filed March 7, 2003, which resulted in the termination order before us in this appeal. After nearly two years under the court's jurisdiction, respondent remained uncooperative and had still not substantially complied with most aspects of the treatment plan. Respondent's unsupervised visitations were discontinued after she failed to return one of the children on time. Respondent attended very few scheduled supervised visitations. She sometimes visited the children without FIA authorization, but that appears to have been because her father was willing to drive the children to Detroit and not because she made any special effort to see them. Although respondent "played appropriately" with the children when she saw them, they had been in the custody of their grandparents for approximately three years and were "accustomed" to being away from respondent. Respondent claimed that she was working, but failed to provide verification of regular income, said she had "no clue" how much she earned, did not have a bank account and did not file tax returns. Respondent had not verified that she had suitable housing. She had not consistently engaged in counseling. A parent's failure to comply with the requirements of a parent-agency agreement is evidence of their failure to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). The evidence here clearly and convincingly supports the trial court's conclusion that respondent failed to provide proper care or custody for the children and that there was no reasonable expectation that she would be able to provide proper care and custody within a reasonable time considering the children's ages.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra*. The trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Kathleen Jansen
/s/ Michael J. Talbot