STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DEMONTE CHRISTOPHER ATKINS and HENRY DANTE ATKINS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEISHA CHRISRONDRA HARRIS,

Respondent-Appellant.

UNPUBLISHED
September 23, 2004

No. 248688
Wayne Circuit Court
Family Division
LC No. 95-335393

Before: Murphy, P.J., and O'Connell and Gage, JJ.

PER CURIAM.

Respondent's parental rights to her children were first terminated in April 1998, but this Court reversed the order because respondent did not receive sufficient notice of the permanent custody proceedings. *In re Atkins,* 237 Mich App 249; 602 NW2d 594 (1999).[1] Following the reversal, petitioner again sought termination of respondent's parental rights, but after a hearing in September 2000, the trial court found that there was not clear and convincing evidence of the statutory grounds for termination. In 2002, petitioner again sought termination of respondent's parental rights. Following a hearing in January 2003, the trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Respondent appeals as of right. We affirm.

Respondent challenges the statutory grounds for termination, contending that she substantially complied with her treatment plan and, to the extent that she did not, petitioner failed to provide her with adequate assistance. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre,* 192 Mich App 47, 50; 480 NW2d 293 (1991). This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Miller,* 433 Mich 331, 337; 445 NW2d 161 (1989).

[1] The parental rights of the children's father were also terminated, but he did not appeal the decision and he was not involved in the subsequent proceedings that are at issue in this appeal.

Before entering an order of disposition, a court must determine whether the FIA has made "reasonable efforts" to reunite a family and to rectify the conditions that led to the FIA's involvement in the case. MCL 712A.18f(4); *In re Terry,* 240 Mich App 14, 26; 610 NW2d 563 (2000). For example, where the respondent is amenable to treatment and available services were not offered, the court may conclude that the petitioner has failed to sustain its burden of showing no reasonable likelihood of change. See, e.g., *In re Newman,* 189 Mich App 61, 65-68; 472 NW2d 38 (1991).

In this case, we reject respondent's contention that her failure to engage in counseling was due to a conflict with her parenting classes. Although respondent participated in parenting classes for fourteen weeks and received a certificate of completion in early November 2001, her noncompliance with counseling began before, and continued during and after the period in which she was taking the classes. In December 2000, she was referred to counseling at the Eastwood Clinic and failed to participate in the counseling. She was given a second referral to the same facility, which she did not follow up on. Franklin-Wright Settlements, Inc., went to her home for outreach counseling in May 2001, and, according to the counselor, she was not present at the scheduled time. She was also referred to Professional Outreach Counseling and attended an initial meeting on October 31, 2001, when the parenting classes would have been ending, but then failed to participate in counseling. For a period of time in late 2001, respondent was cooperating with services, but then stopped. Her last contact with Professional Outreach Counseling was in December 2001. She missed several appointments with that service, and the counselor was unable to contact her. She stopped maintaining contact with Franklin-Wright Settlements and said that she had been unable to contact her therapist because she lost her cell phone and her telephone numbers were programmed into the phone. She did not appear for the permanency planning hearing on June 19, 2002, and still was not participating in services. In light of this record, we reject respondent's attempt to blame her failure to participate in counseling during the years this case has been pending on an alleged conflict with a fourteen-week series of parenting classes.

Respondent also contends that her failure to obtain suitable housing was the result of petitioner's failure to make referrals.

The dispositional order, entered March 14, 1996, required respondent to obtain suitable housing. She began living with her grandmother in August 2000. In September 2001, petitioner inspected the home and deemed it unsuitable because it lacked adequate sleeping arrangements for the children. The court report by Franklin-Wright Settlements for the hearing on November 6, 2001, indicates that they had discussed with respondent some agencies, including the "housing commission," that could assist her. The Franklin-Wright report for March 14, 2002, also states that respondent had been given names and telephone numbers of people to contact regarding housing, but respondent stated that she did not contact them. Thus, the record shows that respondent was offered assistance with housing and declined to follow up. Her inaction is not attributable to a lack of assistance.

Respondent contends that the trial court ignored that she "had successfully completed almost every component of her parent/agency agreement." However, respondent fails to mention the court's findings concerning significant deficiencies in her visitation with the children. Nor does she address the court's finding that she failed to provide adequate verification of her earnings from the post office. We further note that, although respondent was required to attend

the children's medical appointments, she attended "maybe three" of nine appointments for Demonte, who has cerebral palsy and requires extensive care.

In light of respondent's failures over the years this case was pending, the trial court did not clearly err in finding that § 19b(3)(g) was established.[2] Respondent failed to provide proper care or custody of the children by not finding a suitable home and not visiting consistently. Moreover, her failure to substantially comply with the court's orders and parent-agency agreement is evidence of her failure to provide proper care and custody and indicative of neglect. *In re Trejo Minors*, 462 Mich 341, 360-363; 612 NW2d 407 (2000).

Respondent asserts that "the record is clear that the best interest of the children were not met" by terminating her parental rights and she "should be given additional time to plan for her children in the interest of fairness to the children."

This case began in late 1995, more than seven years before the decision at issue in this appeal. The trial court found that respondent had been given additional opportunities when this Court reversed the first order terminating her parental rights and again when it denied the petition for permanent custody in 2000. The court found that the children needed stability and finality and that termination of her parental rights was not contrary to their best interests because it is "more detrimental to have them yo-yoing up and down as to what their mother is going to do." The court's finding in this regard is not clearly erroneous in light of the history and circumstances of this case. In the absence of clear evidence that termination of respondent's parental rights was not in the children's best interests, the court properly terminated respondent's parental rights to the children. MCL 712A.19b(5); *Trejo*, *supra* at 352-353.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Hilda R. Gage

[2] Because only one statutory ground is necessary for termination of parental rights, it is unnecessary to address whether termination was warranted under §§ 19b(3)(c)(i) and (j). *In re SD*, 236 Mich App 240, 247-248; 599 NW2d 772 (1999).