

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DYLAN ROBERT CHOMOS,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JULIE LYNN CHOMOS,

Respondent-Appellant.

UNPUBLISHED
November 9, 2004

No. 256393
Wayne Circuit Court
Family Division
LC No. 95-326072

Before: Murray, P.J., and Sawyer and Smolenski, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712.19b(3)(j). We affirm.

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The child involved in this case was respondent's fifth child and was removed from respondent shortly following his birth after the child tested positive for cocaine. Respondent admitted to using cocaine during her pregnancy and that she used crack cocaine for several days while she was in the hospital awaiting the birth of her child. The evidence also showed that respondent had struggled with drug abuse for lengthy periods of time since 1985 and had been involved in child protective proceedings relative to her older children since 1995 and concerning respondent's substance abuse.¹ At the time of the proceedings in this case, respondent did not have custody of any of her older children. Although the evidence showed that, by the time of the termination trial, respondent had made progress in an inpatient drug treatment program and had maintained a period of sobriety for almost two months, given her long history of serious and recurring substance abuse, including regular cocaine use during her pregnancy, her lengthy history of a lack of appropriate parenting as evidenced by the prior

¹ Most notably, in 1995, one of respondent's older children also tested positive for cocaine at birth.

removals of her older children, her past failure to rehabilitate and her most recent cocaine use while participating in drug treatment, we find no clear error in the trial court's determination that, based on respondent's history of long-term drug use, the child would likely be harmed if returned to her home.

Further, although the evidence indicated that respondent had a bond with the child, desired to care for him, and was appropriate with the child during the supervised visits, given the foregoing evidence we find no clear error in the trial court's determination that termination was in the child's best interests.² *Trejo, supra* at 354. Respondent's recurring, serious drug problem would likely result in a potentially harmful environment and create instability and a lack of permanency for the child.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Michael R. Smolenski

² The trial court went beyond the best interest inquiry under MCL 712A.19b(5). The statute does not require that the court affirmatively find that termination is in the children's best interests. *Trejo, supra* at 364 n 19.