

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRADLEY ROGERS II,
BRANDON ROGERS, and BRENTON ANDREW
ROGERS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHEILA HEIM,

Respondent-Appellant.

UNPUBLISHED
November 23, 2004

No. 254982
Jackson Circuit Court
Family Division
LC No. 01-005226-NA

Before: Donofrio, P.J., and Markey and Fort Hood, JJ.

MEMORANDUM.

Respondent appeals by right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

This is the second time this case is before this Court. In the previous opinion, we reversed the trial court's termination of respondent's parental rights because respondent was repeatedly and futilely placed into substance abuse programs when she should have entered a residential program that all the workers agreed was required to help respondent maintain sobriety. This Court remanded for reconsideration in light of respondent's involvement in a long-term residential substance abuse treatment program. *In re Rogers*, unpublished opinion per curiam of the Court of Appeals, issued July 29, 2003 (Docket No. 246085).

But, despite respondent's declaration at the first termination hearing that she was committed to staying sober and would complete the long-term residential program even if the trial court terminated her parental rights, respondent voluntarily quit the program after only two months because, in her own words, she did not like following the rules. Petitioner filed another petition requesting termination of respondent's parental rights. Testimony at the second termination hearing established that respondent continued to use alcohol, continued to associate with family members who used alcohol, worked as a topless dancer at an establishment where alcohol was served, and did not attend meetings as required. Respondent's prognosis for ongoing sobriety was poor. The trial court again terminated respondent's parental rights. Given the evidence of respondent's failure to take advantage of the second opportunity offered to her,

the trial court did not clearly err in finding that the statutory grounds for termination, MCL 712A.19b(3)(c)(i), (g) and (j), were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

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 Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence presented at the second termination hearing clearly demonstrated that respondent was not able to overcome her chronic alcoholism. Instead, the respondent's problem had worsened because she had begun combining Xanax, Flexeril and crack cocaine with alcohol during her relapses. Moreover, she continued behavior that put her at risk for relapse. Accordingly, the trial court did not err in terminating respondent's parental rights.

We affirm.

/s/ Pat M. Donofrio

/s/ Jane E. Markey

/s/ Karen M. Fort Hood