

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANGEL BALDWIN and CASEY
BALDWIN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TRICIA BALDWIN,

Respondent-Appellant.

UNPUBLISHED

January 10, 2006

No. 263479

Jackson Circuit Court

Family Division

LC No. 01-001658-NA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the children under MCL 712A.19b(3)(g) and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Before the instant case, respondent-appellant had been involved with Protective Services in 1998 following allegations for neglecting both children and in 2001 following allegations of educational neglect of Angel. In November 2003, petitioner filed the temporary custody petition in the instant case, alleging that respondent-appellant had failed to properly treat Casey's seizure disorder, that she had not been treating her own medical problems, that she appeared disoriented and confused, and that her home was extremely dirty and cluttered. Respondent's difficulties parenting were an outgrowth of her serious cognitive limitations, her passive approach to her children's needs, and her failure to engage the children during supervised visits without getting into arguments with them. The children feared respondent's temper and were visibly stressed during her visits. Respondent has a history of criminal assault and was charged twice with assaulting her own mother. At times, the children would leave the visits altogether.

Although respondent-appellant substantially complied with court orders that she participate in parenting classes, the psychological experts and social workers assigned to evaluate and help her concluded that her progress was minimal. Because of her cognitive limitations, she also received one-to-one parenting instructions, but the evidence reflected that she had not retained what she had been taught. The psychological evaluations concluded that,

because of respondent-appellant's intellectual limitations, the children might be at risk of further neglect if placed back in her custody.

Petitioner filed a permanent custody petition in April 2005, alleging that respondent-appellant had not benefited from offered services and that she would have substantial difficulty caring for the two special-needs children. The trial court concluded that the evidence supported termination of respondent-appellant's parental rights under MCL 712A.19b(3)(g) and (j) and that termination was not contrary to the children's best interests.

On appeal, respondent-appellant challenges the statutory bases for termination and the court's failure to find that termination was contrary to the children's best interests. We disagree. The trial court did not clearly err when it determined that petitioner presented clear and convincing evidence verifying the statutory grounds for termination. See MCR 3.997(G)(3). Under MCL 712A.19b(3)(g), a parent may lose parental rights if "[t]he 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 . . . within a reasonable time" Under MCL 712A.19b(3)(j), the parent faces termination of parental rights if "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." The psychological evaluations, together with evidence of respondent-appellant's minimal progress in parenting classes, her inappropriate behavior at visits, her previous neglect of the children, and the children's reactions to her visits, supported the court's finding that termination was appropriate under MCL 712A.19b(3)(g) and (j). Further, the evidence of the children leaving the visits demonstrated that consideration of the children's best interests should not preclude termination of respondent-appellant's parental rights. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Therefore, the trial court did not clearly err in finding a factual basis for terminating respondent-appellant's parental rights.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot