

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRYANT VONDELL MILLER,
a/k/a BRYANT VONDELL MILLER, JR., Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BRYANT MILLER, a/k/a BRYANT VONDELL
MILLER, a/k/a BRYANT VONDELL MILLER,
SR.,

Respondent-Appellant,

and

ELIZABETH L. THOMPSON, a/k/a ELIZABETH
L. THOMPSON MILLER, a/k/a ELIZABETH L.
MILLER,

Respondent.

In the Matter of BRYANT VONDELL MILLER,
a/k/a BRYANT VONDELL MILLER, JR., Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELIZABETH L. THOMPSON, a/k/a ELIZABETH
L. THOMPSON MILLER, a/k/a ELIZABETH L.
MILLER,

UNPUBLISHED
October 19, 2006

No. 268663
Wayne Circuit Court
Family Division
LC No. 97-354096-NA

No. 268664
Wayne Circuit Court
Family Division
LC No. 97-354096-NA

Respondent-Appellant,

and

BRYANT MILLER, a/k/a BRYANT VONDELL
MILLER, a/k/a BRYANT VONDELL MILLER,
SR.,

Respondent.

Before: Murray, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

In Docket No. 268663, respondent Bryant Vondell Miller, Sr. appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (j). In Docket No. 268664, respondent Elizabeth L. Thompson appeals as of right from the same order terminating her parental rights to the minor child under MCL 712A.19b(3)(i) and (j). We affirm. This case has a long history. While Bryant Vondell Miller, Jr. is respondent father's first child, respondent mother had her parental rights to eight other children terminated in July 2000 on the basis of severe and chronic neglect. We affirmed the termination. *In re DDT et al, Minors*, unpublished opinion per curiam of the Court of Appeals, issued March 29, 2002 (Docket No. 229475). Respondent mother's rights to a ninth child were terminated in June 2001, and this result was also affirmed. *In re PP Minor*, unpublished memorandum opinion of the Court of Appeals, issued November 1, 2002 (Docket No. 237833). Respondent mother's tenth child, two-year-old Denise Page, is a temporary ward of the court in Illinois.

In the present child's case, an original permanent custody petition was filed on June 10, 2005, alleging that the child was born positive for drugs. The child also fell off a bed while being watched by respondent father and had a small bleed and hematoma. The physician who examined him opined that the hematoma was most likely caused by birth trauma, but the physician did not rule out the accidental fall or inflicted trauma. There was no retinal hemorrhaging or other medical evidence of neglect, but the court took jurisdiction on the basis of the fall and the mother's prior terminations. The court referred respondents to the Clinic for Child Study (Clinic). The Clinic report suggested temporary wardship. The court and parties agreed to postpone disposition and to schedule drug screening and assessments, therapy, and supervised visitations observed by petitioner. The court also ordered respondents to assist the agency in developing a treatment plan.

Three months later, respondents had not complied sufficiently and a dispositional hearing began. Although respondent mother had prescriptions from her obstetrician to account for the child's positive drug test at birth, respondents failed to attend four appointments with the caseworker to go over a treatment plan and did not timely complete drug assessments or screens as requested. Neither parent was employed, and they lived with the maternal grandmother. Respondent father had a history of cannabis dependence in sustained full remission and was convicted of cocaine possession in 1990.

Under the circumstances, the trial court did not clearly err in finding clear and convincing evidence to support termination of respondent mother's parental rights under MCL 712A.19b(3)(i) and (j). *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000); MCR 3.977(J). The termination of respondent mother's parental rights to eight older children was founded on clear and serious chronic neglect, and prior attempts to rehabilitate her were unsuccessful. She also had her rights to a ninth child terminated and left a two-year-old daughter in foster care in Illinois. Respondent mother's older children suffered greatly from the filthy environment and unstable lifestyle they endured. Although respondent mother argues that she should have been given the opportunity to work on a treatment plan, the evidence demonstrates that she failed to comply with the court's orders and never cooperated with petitioner in this regard. Therefore, the trial court did not clearly err by finding a reasonable likelihood, on the basis of her prior neglect and her current failure to comply with services, that the child at issue would be harmed if returned to respondents' home. MCL 712A.19b(3)(i) and (j).

We likewise find no clear error in the trial court's termination of respondent father's parental rights under MCL 712A.19b(3)(g) and (j). Respondent father chose to remain with the mother, despite knowing her history of prior terminations. He gave her the benefit of the doubt and felt it was not fair to take away her other children, despite the overwhelming evidence demonstrating her neglect. Adding to his willingness to maintain this environment, he placed the child near the edge of a bed and then got up to get a diaper, causing the child to fall. While such carelessness could be ameliorated by demonstrating a willingness to develop his parenting skills as recommended by the Clinic's psychologist, respondent father did not look into the recommended parenting classes. He slept through an appointment with the caseworker and missed several other appointments. He did not immediately comply with the order for drug screens and an assessment, which were necessary because of his prior drug use. These omissions showed a lack of commitment to working towards regaining custody. Together with his decision to raise the child in a parenting environment that included respondent mother, there was a high risk that the child would suffer neglect and harm in their care. Clear and convincing evidence supported termination of respondent father's parental rights under subsections (g) and (j).

The record also lacks any clear error in the trial court's determination that termination of both respondents' parental rights was not contrary to the child's best interests. MCL 712A.19b(5); *Trejo, supra* at 354. Given respondent mother's history and each respondents' failure to demonstrate their ability to raise the child in a safe and secure environment, termination was not clearly against the child's best interests.

Affirmed.

/s/ Christopher M. Murray
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood