

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AUSTIN SMITH, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

APRIL SMITH,

Respondent-Appellant,

and

TIMOTHY SCRIVNOR,

Respondent.

UNPUBLISHED

December 14, 2006

No. 269955

Washtenaw Circuit Court

Family Division

LC No. No. 04-000112-NA

Before: Markey, P.J., and Saad and Wilder, JJ.

PER CURIAM.

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

Respondent-appellant claims that termination of her parental rights was clear error because she was substantially complying with her parent agency agreement (PAA) and making adequate progress. We disagree. Austin entered foster care in July 2004, after respondent-appellant threatened to shoot herself while holding Austin. Petitioner-appellee and respondent-appellant entered into a parent-agency agreement which required improvement in mental health, substance abuse, employment, and housing. Respondent-appellant completed parenting classes and a drug treatment program at Personalized Nursing Light House. She then finished a second inpatient program at Dawn Farm, but she left the transitional housing portion to reunite with respondent Scrivnor. Had she stayed at Dawn Farm, Austin could have been returned to her soon. Respondent-appellant instead chose to live in a homeless shelter. Around this time, she began missing drug screens and then tested positive for Tylenol 3 (Tylenol with codeine). Subsequently, she left respondent Scrivnor after he threw pizza and 7-Up at her, scaring her two older children. Respondent-appellant then began methadone treatment at Treatment Works. She also received counseling, attended AA, and started her own cleaning business.

While respondent-appellant was on track to finish the methadone program in summer 2006, the trial court determined that Austin could not wait for her to achieve a drug-free, stable life. The evidence supported this determination. As the lower court found, respondent-appellant had displayed instability in her mental health, relationships, work, housing, and the care of her other children. To her credit, she did achieve some stability late in the case. However, the trial court did not clearly err in finding that, in light of her long-term abuse of drugs, she had not secured sufficient sobriety and stability to allow Austin to be safely returned to her. Clear and convincing evidence supported termination of respondent-appellant's parental rights under MCL 712A.19b(3)(c)(i) and (g). MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Finally, we find no clear error in the trial court's determination that termination of respondent-appellant's parental rights was not clearly contrary to Austin's best interests. MCL 712A.19b(5); *Trejo, supra*. While respondent-appellant loved Austin and was no doubt sincere in her wishes to improve, Austin had been in foster care for 18 months, and the trial court appropriately determined that he needed immediate stability. Moreover, evidence of a strong bond between respondent-appellant and Austin was lacking. By some accounts, Austin's development was delayed when he entered foster care, and respondent-appellant had smoked marijuana during the pregnancy. She relapsed on various drugs, including heroin and cocaine, while caring for Austin and her other children. Austin needs a permanent, safe, stable, drug-free home, which respondent-appellant cannot provide. We have no definite and firm conviction that a mistake was committed in the trial court's findings on Austin's best interests. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

We affirm.

/s/ Jane E. Markey
/s/ Henry William Saad
/s/ Kurtis T. Wilder