

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In the Matter of THEODORE COLLINS, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KRISTINE TYMUSZ,

Respondent-Appellant.

---

UNPUBLISHED

December 21, 2006

No. 271661

Marquette Circuit Court

Family Division

LC No. 91-004167-NA

Before: Meter, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm.

The minor child first came under the court's jurisdiction in 1991. Since then, he has been removed from the home and returned several times and has spent most of his life in foster care. The child has developmental disabilities and attends special education classes.

Respondent initially claims that clear and convincing evidence did not support termination of her parental rights under MCL 712A.19b(3)(c)(i) or (g). We disagree. The minor child was removed most recently in August 2002. Respondent's parent agency agreement (PAA) called for counseling, parenting education, and the development of budgeting skills and a support network. Respondent had largely failed to benefit from services in these areas in the past. The same pattern continued from 2002 to 2006; when services were lessened, respondent would backslide and revert to isolation and depression. However, the minor child was emotionally connected to respondent and she did intermittently progress with services. In 2004, a mediation hearing was held. The court accepted the mediation agreement, which included that respondent complete the service plan, including weekly counseling. The permanency plan was now a permanent foster family agreement (PFFA). However, respondent would not accept a PFFA and insisted that the minor child was coming home. This could not occur, however, as long as respondent's parenting skills and mental health were questionable. Respondent refused to cooperate with the Family Health Educator, would not speak reasonably with the foster parents, missed counseling sessions, and made bizarre accusations against the caseworker, e.g., that the worker killed her hamster and damaged her dresser with a hammer. With this and other similar evidence on the record, the trial court did not clearly err in finding clear and convincing evidence

that respondent was unable to provide proper care and custody for the minor child and would not be able to do so within a reasonable time, and also that the conditions leading to the adjudication continued and would not be rectified within a reasonable time. *In re Trejo*, 462 Mich 341, 357-363; 612 NW2d 407 (2000); *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005); MCR 3.977(J).

We further find no error requiring reversal in connection with the PFFA. A child's placement in foster care may continue long-term if the agency demonstrates that initiating termination proceedings is clearly not in the child's best interests. MCL 712A.19a(7)(b). See also MCL 712A.13a(1)(i) (definition of PFFA). As noted above, respondent was unwilling to sign an initial PFFA. On January 23, 2006, the foster care agency, Child and Family Services (CFS), again offered respondent a PFFA and gave her forty-five days to accept. It was made clear that, if she did not agree, termination would be pursued. Respondent did not sign the PFFA and a termination petition was filed on the forty-fifth day, March 9, 2006. Thereafter, respondent called CFS on March 22, stating that she would sign the PFFA. She testified that she did sign the agreement. By then, however, CFS had withdrawn its offer.

While respondent argues that CFS's withdrawal of the PFFA was in bad faith, respondent failed to present evidence of bad faith at the termination hearing. Rather, CFS's reports and testimony showed that the agency questioned whether respondent would actually follow the PFFA. She was not going to counseling, taking her medicine, complying with the mediation agreement, or maintaining employment. Further, she was making unusual statements, such as that she was "dying inside" whenever she went to therapy. CFS reasonably feared that respondent would again make statements to the minor child that could harm him or disrupt his placement. Therefore, the evidence showed that CFS was concerned with the minor child's welfare and did not act in bad faith. Considering these facts, we find no error requiring reversal with regard to the trial court's treatment of the PFFA issue.

We further reject respondent's argument that termination of her parental rights was clearly contrary to the minor child's best interests. MCL 712A.19b(5); MCR 3.977(J); *Trejo*, *supra*. While respondent and the minor child did have a bond, respondent's mental stability and parenting skills were questionable. Respondent stopped cooperating with counseling, the FHE, and the foster parents, made bizarre statements, and could not provide an appropriate home for the minor child. Moreover, the trial judge had dealt with the case for fifteen years and was in the best position to evaluate the credibility of the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We find no clear error with regard to the trial court's best interests ruling.

Affirmed.

/s/ Patrick M. Meter  
/s/ Peter D. O'Connell  
/s/ Alton T. Davis