

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Stephen Harvey, Joseph Harvey
and Anthony Harvey, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NICOLE HARVEY,

Respondent-Appellant.

UNPUBLISHED

September 20, 2007

No. 276117

Washtenaw Circuit Court

Family Division

LC No. 05-000093-NA

05-000094-NA

05-000095-NA

Before: Borello, P.J., and Jansen and Murray, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating her parental rights to her minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that termination is clearly not in the best interests of the child. *Id.* at 353. We review the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The trial court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g) and (j), which provide:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) The 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 provide proper care and custody within a reasonable time considering the child's age.

(j) There 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.

Here, it was established that respondent became involved in a proceeding under the Juvenile Code on August 2005 and at the time the court terminated her parental rights, more than 182 days had passed since the issuance of an initial dispositional order. Although respondent partially complied with her dispositional orders, it was established that she failed to do the follow up work that was assigned after her psychological evaluation, occasionally missed Stephen's therapy sessions, cancelled visitations with the children on at least six occasions, brought a registered sex offender with her to one of her visitations, and it is disputed whether she attended individual therapy. Respondent also lost her job as a security guard for frequently missing work, and although she had obtained a new job at Wendy's, she had yet to work a scheduled shift as of the day of the termination hearing.

Respondent's inability to clean up her trailer, or secure running water for her trailer, supports the conclusion that she did not comply with the request to make her trailer a fit place to live. Respondent was ultimately evicted from her trailer on July 18, 2006, and since her eviction has failed to maintain adequate housing for the children. Testimony also revealed various instances of questionable parenthood by respondent during her parenting time visitations, such as walking out on a doctor who asked her to hold down her son so he could stitch him up, accepting money from her son to help pay her bills, and blurting out to her children that their father had been cremated.

We therefore conclude that the conditions that led to respondent's termination proceedings (psychological instability, and failure to maintain employment and keep a fit home) continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time. Accordingly, we hold that the trial court did not commit clear error when it found clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i).¹

¹ Although we must affirm the trial court's order given our conclusion that the evidence
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Finally, in light of Stephen's actions of giving his mother money to help pay her bills, and his statement that if he moved back in with respondent he would have to get a job to help respondent pay the bills, we agree with petitioner's assessment that returning custody of Stephen to respondent "would result in an unhealthy level of stress and responsibility being placed on his young shoulders." Furthermore, given respondent's psychological instability, the presence of a registered sex offender in her life, and her inability to maintain steady employment and a fit home, we additionally hold that the trial court likewise did not commit clear error when it failed to find that termination of respondent's parental rights was clearly not in the best interests of her children. Accordingly, we conclude that the trial court did not commit clear error when it terminated respondent's parental rights. *In re Trejo, supra* at 353, 355.

Affirmed.

/s/ Stephen L. Borrello
/s/ Kathleen Jansen
/s/ Christopher M. Murray

(...continued)

supported termination under MCL 712A.19b(3)(c)(i), *In re Trejo, supra* at 354, we additionally conclude that the same evidence also established that respondent, without regard to intent, failed to provide proper care or custody for her children and that there was no reasonable expectation that she would be able to provide proper care and custody within a reasonable time, and that there was a reasonable likelihood that the children would be harmed if they were returned to respondent's care. Accordingly, the trial court also did not commit clear error when it found clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g) and (j).