

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAYLEN RONALD
WASHINGTON and CAMERON JAY
WASHINGTON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KARIE ANN MOORE,

Respondent-Appellant,

and

RONALD ALLEN WASHINGTON,

Respondent.

UNPUBLISHED

April 1, 2008

No. 279233

Wayne Circuit Court

Family Division

LC No. 02-408164

Before: Murray, P.J., and Bandstra and Fort Hood, JJ.

PER CURIAM.

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

Jaylen was removed shortly after birth and an original petition for permanent custody was filed in October 2004. Respondent previously had her parental rights terminated to two older children in March 2004, and her parental rights to a third child were terminated in December 2004.¹ Because respondent appeared to be addressing the issues of concern, the court gave her the opportunity to plan for Jaylen. An order of disposition was entered on April 15, 2005. Respondent's parent agency agreement (PAA) required her to attend supervised visitation, parenting classes, drug screens, and a psychological evaluation and substance abuse assessment, plus treatment if recommended. Respondent was to maintain suitable housing and income.

¹ These proceedings took place in Oakland County.

These conditions also applied to father Ronald Washington, respondent's live-in partner. Respondent had a history of psychiatric hospitalizations in 2001, 2003, and 2004, with diagnoses including bipolar disorder. She had a conviction for retail fraud, and Washington had an extensive criminal history.

Over the next several months, respondent completed parenting classes, attended visitations and appeared to be bonding with Jaylen, and went to therapy. Unsupervised visitations were permitted. However, while respondent was hospitalized for the birth of Cameron (born in October 2005), she tested positive for cocaine. Permanent custody petitions were then authorized for Cameron and Jaylen. Respondent had missed medication reviews and counseling sessions, and had stopped taking her psychiatric medications. Washington was also submitting positive drug screens and apparently was addicted to prescription drugs.

Subsequently, petitioner withdrew the petitions, and respondent and Washington were permitted once more to plan for the children. Again, respondent appeared to do well; she finished another parenting class, went to visitations, worked part time, and attended substance abuse therapy and counseling. She did test positive for oxazepam, propoxyphene, and hydrocodone, but the caseworker thought this resulted from respondent's prescription medications. Unsupervised visits were permitted and progressed to day and, later, weekend visits. Then, in May and June 2006, Jaylen began returning with bruises that petitioner attributed to foster care. Jaylen was moved to Cameron's foster home, and the caseworker recommended returning the children to respondent and Washington. The referee recommended reunification services and requested petitioner to provide a therapist opinion supporting return to the parents. However, the GAL requested review of the referee's recommendation, and the trial judge ordered that visits be supervised.

Over the next months, respondent's participation again deteriorated. She missed therapy appointments and several drug screens, which were considered positive as a result. Finally, respondent tested positive for cocaine on October 31, 2006. These developments prompted the judge to remove the caseworker and to order the filing of a termination petition. Respondent again tested positive for cocaine and opiates in January 2007, and she admitted using cocaine on this occasion. She also suffered from mental health problems in March and April 2007, to the extent that she was unable to leave her home. She then began a dual diagnosis program for mental health and substance abuse.

This history demonstrates that respondent continued to display the same behaviors that brought the children into care. Respondent complied only sporadically with her treatment plan. Failure to substantially comply with the court-ordered treatment plan is evidence of continuing neglect. *In re Trejo*, 462 Mich 341, 360-361; 612 NW2d 407 (2000). Further, "it is not enough to merely go through the motions" of attending classes and therapy; a parent must benefit from services and be able to provide a safe, nurturing home for the children. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). Here, respondent failed to benefit sufficiently from substance abuse therapy, because she continued to relapse by using cocaine. She also ceased attending therapy and medication reviews more than once, and her mental condition was not stable. Further, she continued to plan with Washington, who had serious problems with substance abuse.

Respondent did show a commitment to her children by attending visitations and completing two sets of parenting classes, and she demonstrated appropriate parenting skills. However, with her unresolved drug and mental health issues and Washington's drug addiction, the children would remain at risk if returned to respondent's home. Thus, the trial court did not clearly err in finding sufficient evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). Additionally, the doctrine of anticipatory neglect further supported termination under subsection (g). Respondent's treatment of her older children is probative of probable treatment of Jaylen and Cameron. See *In re Powers*, 208 Mich App 582, 588-589, 592-593; 528 NW2d 799 (1995). Finally, the grounds for subsections (i) and (l) were satisfied, because respondent had her parental rights terminated to three older children and attempts to rehabilitate respondent have been unsuccessful.

We further find no clear error in the trial court's determination that the children's best interests did not preclude termination of respondent's parental rights. MCL 712A.19b(5); *Trejo*, *supra* at 353. The evidence showed that respondent was unable, despite repeated chances, to conquer her mental health and substance abuse issues. These issues, and not the abuse of Jaylen in foster care or the trial court's taking the case from the referee, were what led to the children being in care for so long. Respondent loved her children and wanted to be a good parent. However, the children would have been at risk in the home she shared with Washington as long as they remained unable or unwilling to resolve the issues that brought the children into care. The children need a stable, safe, drug-free home, which respondent is unable to provide. Thus, the trial court did not clearly err in its best interests ruling.

We affirm.

/s/ Christopher M. Murray

/s/ Richard A. Bandstra

/s/ Karen M. Fort Hood