

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LEWIS TAYLOR, EDMUND  
TAYLOR, and VICTORIA ELIZABETH  
TAYLOR, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GENEINCE MOTON,

Respondent-Appellant.

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UNPUBLISHED

May 29, 2008

No. 282809

Ingham Circuit Court

Family Division

LC No. 06-002585-NA

Before: Davis, P.J., and Murray and Beckering, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at 355-357; *Sours, supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller* 433 Mich 331, 337; 445 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337.

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g). Much of the evidence concerning MCL 712A.19b(3)(c)(i), i.e., the conditions that led to the adjudication continue to exist. The evidence also clearly established respondent's failure to provide proper care and custody of the children under MCL 712A.19b(3)(g). At the time of the adjudication, respondent had a history of

untreated substance abuse and had been noncompliant with social services that were offered by the state of Indiana. At the time of the permanent custody hearing, respondent continued to have an untreated substance abuse problem and was noncompliant with services offered by the state of Michigan. The trial court can properly consider noncompliance with a treatment plan as an indication that the neglect and drug use that occurred at the time of the adjudication would continue since respondent did not show a willingness to change. *In re Miller*, 182 Mich App 70, 83; 451 NW2d 576 (1990). Respondent's verbal assurances that she had changed and merely needed more time are not convincing given her history and conduct since the children were removed from her care.

Respondent's drug abuse, which was a basis for the adjudication, was not addressed at the time of the permanent custody hearing despite her many referrals for drug treatment and screens. Respondent was first sent to Central Diagnostic and Referral Services (CDRS) for a drug assessment and treatment in December 2006. In January 2007, respondent was discharged from the Project Sentry program because she failed to submit screens and tested positive for cocaine. On February 3, 2007, respondent was admitted to the Turning Point facility for detoxification. After completing seven weeks of inpatient drug treatment at Glass House, which she began in February 2007, respondent tested positive for cocaine on March 29, 2007, and missed eight drug screens in April 2007. Respondent next tested positive for marijuana on May 18, 2007. She missed four drug screens in May and two drug screens in June. While respondent insisted she last used drugs in June 2007, the record shows she tested positive for cocaine in July 2007 and did not submit any more drug screens thereafter. Although respondent returned to Glass House for drug treatment again in July 2007 after she relapsed, she only stayed for six days and did not demonstrate that she remained drug free.

Respondent's drug use also interfered with her ability to comply with other areas of her treatment plan. Although respondent had been referred to Love and Logic parenting classes, she began attending parenting classes at a program called Shared Pregnancy. Respondent claimed she stopped attending those parenting classes after two sessions because she started using drugs again. Respondent's drug use also prevented her from being able to visit the children because parenting time was contingent upon her submission of negative drug screens. However, not even the prospect of spending time with her children motivated respondent to avoid drugs and submit drug screens on a regular basis. Respondent visited her children on November 22, 2006, and shortly thereafter she tested positive for illegal drugs. While respondent was in inpatient drug treatment at Glass House, she failed to submit a week of clean drug screens so she was not afforded parenting time. As a result of respondent's drug use, she had not seen the children since March 2007.

In addition to the drug abuse that interfered with respondent's ability to properly care for the children, her inability to provide proper care and to demonstrate a commitment to the children was also evident in her refusal to show proof of employment, obtain and maintain suitable housing, and attend parenting classes and therapy. Respondent's foster care caseworker referred her to the Love and Logic parenting program for parenting classes but she failed to attend any sessions. Also, respondent said she was renting a room and planned to have a one-bedroom apartment by January 23, 2008. However, even if these plans came to fruition, a one-bedroom apartment would not have provided enough space to make a suitable home for respondent and the three children. Additionally, respondent failed to provide proof of

employment or to show proof of her claim that she had a job lined up at the Best Western Inn. The \$500 a month she claimed to be earning at the time of the permanent custody hearing was not enough to support a family of four. Respondent's failure to comply with her treatment plan is evidence of her failure to provide proper care and custody for the children. *In re JK, supra* at 214.

Affirmed.

/s/ Alton T. Davis

/s/ Christopher M. Murray

/s/ Jane M. Beckering