

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of CALVIN DOMINICK COOK and  
DENINE STACY COOK, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENISE HARRIS-COOK,

Respondent-Appellant.

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UNPUBLISHED

November 18, 2008

No. 284137

Wayne Circuit Court

Family Division

LC No. 01-399684-NA

Before: Zahra, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

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

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one 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 the termination is clearly not in the best interests of the children. *Id.* at 353; MCL 712A.19b(5). This Court reviews the trial court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); MCR 3.977(J). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The conditions that initially prompted the court to assume jurisdiction over the children occurred in 2001 when respondent was arrested and charged with selling marijuana, and no one was available to care for the children at the time of her arrest. Respondent admitted the above allegations and the children were removed from the home. The children were soon returned

home, but were again removed from the home following allegations that marijuana was in the home. The children again returned home only to be removed when the children were discovered in a house where a family friend of respondent had overdosed on heroine. In December 2003, the court terminated jurisdiction.

In December 2004, the court assumed custody after police raided respondent's home and confiscated two guns, marijuana and \$1,300 cash. Interim hearings indicated that respondent made some progress in her treatment plan. However, in January 2007, a friend of respondent's assaulted a DHS worker. Also, respondent confessed that she gambled money and consequently could not pay rent. Respondent continued to attend services, but in June 2007, DHS filed a complaint seeking termination of respondent's parental rights.

Testimony at trial revealed that respondent continued to make poor decisions regarding drugs and alcohol in her home. The in-home services worker testified to concerns that there was marijuana in the home. The worker also testified that respondent explained to her that the odor was caused by a woman who lived in the home "drying her blunt off in the microwave." However, there was evidence that police raided her home and found drugs and that the children were present in a home where a person overdosed on heroine. Testimony also revealed that a man in respondent's home assaulted the foster care worker, and respondent admitted that beer and liquor were present at the time of this incident. Also, there was evidence that respondent allowed Calvin to have contact with the children's father, respondent's former husband George Cook, whose parental rights had been terminated. According to respondent, Cook was selling drugs from the home when the police conducted the raid. Given the history of this case, we agree with the foster care case manager's opinion that while respondent is appropriate with the children for short periods of time, the more "reign . . . [given] her, the more difficulty she had managing their behaviors or making appropriate decisions herself."

We find that the above evidence supports the trial court's finding that the conditions that led to adjudication, the presence of drugs and alcohol in respondent's home and respondent's failure to protect her children from the effects of the use of these substances, continued to exist. Given the amount of time respondent had to participate in services, and her failure to progress with such services, the trial court did not clearly err in finding that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages, MCL 712A.19b(3)(c)(i). The above evidence also supports the trial court's finding that there was a reasonable likelihood, based on respondent's conduct, that the children would be harmed if returned to her home, MCL 712A.19b(3)(j).

Respondent also contends that the trial court's decision that she could not provide proper care and custody within a reasonable time was clearly erroneous. Respondent had many opportunities to participate in services to improve upon her parenting and decision-making skills. Although respondent made some progress, and had the children temporarily returned to her care, she never demonstrated the ability to care for the children for the long term. Thus, termination was warranted pursuant to MCL 712A.19b(3)(g).

Furthermore, the termination of respondent's parental rights was not clearly against the children's best interests. We acknowledge that respondent loves her children. However, the foster care case manager testified that these special needs children "desperately" needed stability, and the evidence revealed that respondent did not have the ability to care for them. Thus, the trial court did not err in terminating her parental rights.

Affirmed.

/s/ Brian K. Zahra  
/s/ Mark J. Cavanagh  
/s/ Patrick M. Meter