

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHTON DAVID PATTERSON
and ANABELLE RAYE PATTERSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JESSICA MARIE COOLEY,

Respondent-Appellant,

and

DAVID LEE PATTERSON,

Respondent.

In the Matter of ASHTON DAVID PATTERSON
and ANABELLE RAYE PATTERSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DAVID LEE PATTERSON,

Respondent-Appellant,

UNPUBLISHED
December 18, 2008

No. 286125
Monroe Circuit Court
Family Division
LC No. 07-019966-NA

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Monroe Circuit Court
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and

JESSICA MARIE COOLEY

Respondent.

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

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The petition for temporary custody was filed after Ashton, then two years old, suffered a near fatal overdose of methadone that respondent mother had left in her pocket. Respondent mother did not seek immediate medical attention for Ashton. Anabelle had also been hospitalized for over four weeks following her birth because of prenatal exposure to methadone, and she had only been home for four days before the children were removed from respondent mother's care. Respondent father was incarcerated for domestic violence against respondent mother at the time of the removal. Due to incarceration and substance abuse treatment, respondent parents did not substantially complete their case service plans or visit the children during the year the case was pending.

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i) and (g) were established by clear and convincing evidence with regard to both respondents. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 357; 612 NW2d 407 (2000). Respondent mother did not complete her inpatient substance abuse treatment program. Although she was excused for medical reasons, her therapist from the treatment program testified that respondent mother needed lengthy inpatient treatment to maintain her sobriety. Respondent mother was incarcerated for a great deal of the time the case was pending and prolonged her incarceration by failing to return to jail after a medical release. She did not have housing or employment and did not complete any aspect of the case service plan. Essentially, after her children had been in foster care for over a year, she was starting from the beginning. The children were aged two and a half and one year and had already spent over a year in foster care. At best, it would take respondent mother six to 12 months to be able to provide proper care and custody for them and rectify the conditions leading to adjudication. Under these circumstances, the trial court did not clearly err in finding that petitioner established sections (c)(i) and (g) with regard to respondent mother.

There was also no question that the conditions of adjudication continued to exist with regard to respondent father and that he could not provide proper care and custody for the children at the time of trial. Respondent father was incarcerated for most of the pendency of the case, first for domestic violence against respondent mother and then for other crimes committed after his release. At the time of trial, respondent father was in inpatient substance abuse treatment and had 60 days until completion. He testified that he would be able to care for the children within four months. This scenario was optimistic, however, considering respondent father's criminal

history in the preceding four years and the substance abuse issues for which he was seeking treatment for the first time. Therefore, the trial court did not clearly err in finding that respondent father would not be able to provide proper care and custody for the children or rectify the conditions leading to adjudication within a reasonable time considering the children's ages.

The trial court also did not clearly err in finding that MCL 712A.19b(j) was established with regard to both parents. Respondent mother admitted that Ashton's life-threatening overdose occurred because she was neglectful and "high." The foster care worker testified that respondent mother became frustrated when she had to care for both children during visitation with no assistance from another adult. Given respondent mother's new and tenuous sobriety and her lack of recent contact with the children, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if returned to her home. Because respondent father had difficulty remaining out of jail, had no extensive period of sobriety outside of jail or inpatient treatment, and his criminal history included domestic violence against respondent mother, this Court also cannot say that the trial court clearly erred in finding that petitioner established that there was a reasonable likelihood that the children would be harmed if returned to respondent father's home.

The trial court also did not clearly err in its best interests determination. MCL 712A.19b(5); *Trejo, supra* at 344. There is no doubt that respondent parents' bond with the children was extremely limited, if it existed at all. Because of the length of time the children had already been in foster care, the additional time needed for respondent parents to be able to care for the children, and the likelihood of relapse by either respondent parent, the trial court did not clearly err in finding no evidence that termination was against the children's best interests.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter