

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M.L.W., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LEESA THOMPSON,

Respondent-Appellant.

UNPUBLISHED

March 24, 2009

No. 286592

Genesee Circuit Court

Family Division

LC No. 01-114525-NA

Before: Cavanagh, P.J., and Fort Hood and Davis, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (h), and (j). We affirm.

The minor child first entered foster care in 2001 based on allegations of domestic violence between respondent mother and her live-together partner. The child was returned to her father's custody in 2003, and because of allegations of sexual abuse by respondent mother, only supervised visitation with respondent mother was permitted. The case was closed in 2004. The child reentered foster care in 2006 because her father's home was not appropriate, the child was not attending school, and her father failed to protect her by allowing respondent mother to have unsupervised visitation. During the pendency of this case, respondent mother did little toward complying with the parent-agency agreement, had little contact with the foster care worker, and was imprisoned for failing to comply with probation.

The trial court did not clearly err in finding that sections (c)(ii) and (g) were established by clear and convincing evidence. MCR 3.977(J). Respondent mother received notice, a hearing, and ample time to rectify the other conditions that could have led to adjudication, namely her domestic violence, substance abuse, and failure to comply with her probation. Of the services required by the parent-agency agreement, respondent mother completed only her psychological evaluation and inpatient substance abuse treatment, but her admitted relapse upon release from treatment negated the value of that treatment. Respondent mother went long periods of time between contact with the child's foster care worker and did very little to comply with the court's orders, ultimately being imprisoned for her failure to comply with probation. Without the domestic violence treatment and substance abuse treatment, respondent mother was

not able to provide proper care and custody for the minor child. Based on respondent mother's failure to comply with the parent-agency agreement, the child's age, and the fact that the child had not been in respondent mother's care since 2002, the trial court did not clearly err in finding that respondent mother could not rectify the other conditions or provide proper care and custody within a reasonable time.

The trial court also did not clearly err in finding that section (h) was established by clear and convincing evidence. MCR 3.977(J). Respondent mother's earliest release date was six months from the date of trial. However, based on respondent mother's failure to comply with the parent-agency agreement and the child's credible allegations of sexual abuse by respondent mother, the trial court did not clearly err in finding that the child would be deprived of a normal home for a period exceeding two years. Respondent mother does not argue that she planned for the child's proper care and custody while incarcerated and, as discussed above, respondent mother could not provide proper care and custody within a reasonable time.

The trial court did not clearly err in finding that section (j) was established by clear and convincing evidence. MCR 3.977(J). Even setting aside the allegations of sexual abuse, respondent mother did not treat her substance abuse issue, did not attend domestic violence classes, and did not attend parenting classes. She was incarcerated and had no home or income to enable her to care for her daughter. Before her incarceration, she showed little initiative to comply with probation or even remain in contact with her foster care worker. Therefore, the trial court did not clearly err in finding that there was a reasonable likelihood that the child would be harmed if returned to respondent mother's home.¹

Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interests. *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000). The minor child had not lived with respondent mother since 2002. Any relationship respondent mother and the child may have had was severely weakened by the lack of contact. Based on this lack of contact, the allegations of sexual abuse, and respondent mother's substance abuse and domestic violence issues, the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood
/s/ Alton T. Davis

¹ Any error in finding that section (c)(i) was established was harmless where other grounds for termination were established by clear and convincing evidence.