

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JUANKIA SEDAN DEVILL
WALKER, JUANETTA SEVILLE WALKER,
and JUAN WALKER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JUAN WALKER,

Respondent-Appellant,

and

ANGELA JEAN HOWARD,

Respondent.

In the Matter of JUANKIA SEDAN DEVILL
WALKER, JUANETTA SEVILLE WALKER,
and JUAN WALKER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JUAN WALKER,

Respondent,

and

ANGELA JEAN HOWARD,

UNPUBLISHED
October 27, 2009

No. 291618
Wayne Circuit Court
Family Division
LC No. 97-356318

No. 292229
Wayne Circuit Court
Family Division
LC No. 97-356318-NA

Respondent-Appellant.

Before: Davis, P.J., and Whitbeck and Shapiro, JJ.

PER CURIAM.

In these consolidated appeals, respondents Juan Walker and Angela Howard appeal as of right from the trial court's order terminating their parental rights to the minor children. Howard argues that the trial court erred in finding statutory grounds for termination established by clear and convincing evidence, and both parents argue that the trial court erred in finding termination not contrary to the childrens' best interests. We affirm.

The existence of a statutory ground for termination must be proven by clear and convincing evidence. MCR 3.977(F)(1)(b) and (G)(3); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). We review the trial court's findings of fact for clear error. MCR 3.977(J); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). A finding is clearly erroneous if, although there may be evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id.* Due regard is given to the trial court's special opportunity to judge the credibility of witnesses. *In re Miller, supra* at 337. Because establishment of only one statutory ground is necessary, erroneous termination on one ground is harmless if another ground was also properly established. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

The trial court terminated the mother's parental rights under MCL 712A.19b(3)(c)(i), (g) and (j), which provide for termination under the following circumstances:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial disposition order, and the court, by clear and convincing evidence, finds either of the following:

(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 age of the child.

* * *

(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 age of the child.

* * *

(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 find no error in the trial court's findings.

The conditions that led to the initial adjudication included environmental and educational neglect, and also Howard's substance abuse. The environmental and educational neglect concerns were no longer issues after the children were placed in foster care. Further, Howard's apartment with her boyfriend was clean and orderly. However, Howard never resolved the most significant issue, which was her long-term substance abuse problem.

She never completed a substance abuse treatment program, and several attempts at treatment were unsuccessful. In addition, she did not begin regularly submitting random drug screens until July 2008, nearly two months after the termination petition was filed, and nearly three years after the children were placed in care, and she tested positive for cocaine in June 2008, and again in August 2008. Although she claimed to be attending NA/AA meetings, she failed to provide proof of attendance, did not have a sponsor, and had little knowledge of the 12-step programs. Moreover, considering her more than 20-year history of substance abuse, her failure to successfully complete a substance abuse treatment program, and her positive drug tests in June and August 2008, and finally – but significantly – her refusal to cooperate with other services, the trial court did not clearly err in finding that Howard was not reasonably likely to rectify her substance abuse problem within a reasonable time considering the children's ages. Termination was justified under § 19b(3)(c)(i).

Howard's unresolved substance abuse problem also supports the trial court's finding that termination was appropriate under § 19b(3)(g). In addition, the record shows that Howard has a serious anger management problem that she claims no longer exists, and that she refuses to believe that her volatile temper has any effect on her children. The evidence indicated that she relied on her boyfriend and on an older child to help her control her temper, and relied on her older children to help parent the younger children. Indeed, Howard displayed an inability to, as the trial court put it, "maintain herself" during the court proceedings. Testing revealed that her intellectual capacity is in the very low range and, although she completed parenting classes, she did not benefit from them. Her long history of noncompliance with services corroborates her psychological profile that she is resistant to treatment and unlikely to benefit from services. The trial court did not clearly err in finding that Howard failed to provide proper care or custody, and that there was no reasonable likelihood that she would be able to do so within a reasonable time considering the ages of the children. Termination was justified under § 19b(3)(g).

Lastly, the evidence clearly shows that the children were harmed when they were born with cocaine in their system, and they were emotionally harmed by Howard's addiction and uncontrolled anger. The children were also harmed by Howard's failure to send them to school. Because the substance abuse and anger management problems were never successfully resolved, it was reasonably likely that the children would be harmed if returned to Howard's home. Therefore, termination was also appropriate under § 19b(3)(j).

Once a statutory ground for termination has been proven, the court shall order termination of parental rights if it finds "that termination of parental rights is in the child's best

interests[.]” MCL 712A.19b(5). The trial court’s best interests decision is also reviewed for clear error. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000).

The evidence shows that the children are bonded to each other and to Howard, and that the children wanted to live together as a family again. However, the children had been in foster care for almost three years. Howard was never able to successfully overcome her long-term substance abuse problem, which caused the conditions that brought the children into care, and she continued to be in denial of her anger management problem, which she believed had no effect on the children despite clear evidence to the contrary. Further, her prognosis for improvement is poor. Howard’s older child Quinton was beginning to echo Howard’s anger, and her daughter Juankia has both emotional problems and anger management issues. Further, Quinton and Juanetta both adopted parental roles toward the younger children, and in fact adopted parental roles toward Howard herself. The trial court did not clearly err in finding that termination of Howard’s parental rights was in the children’s best interests.

Walker also argues that termination of his parental rights was contrary to the children’s best interests. However, his argument focuses solely on whether termination of Howard’s parental rights was in the children’s best interests. He does not argue or explain how termination of his parental rights was contrary to the children’s best interests. Given our conclusion that the trial court did not clearly err in finding that termination of Howard’s parental rights was in the children’s best interests, and considering that Walker was serving a prison sentence and had not seen the children for almost two years, we reject this claim of error. The trial court did not clearly err in finding that termination of Walker’s parental rights was also in the children’s best interests.

Affirmed.

/s/ Alton T. Davis
/s/ William C. Whitbeck
/s/ Douglas B. Shapiro