

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROSHELL RE'NIECE LOWE,
KE'MARCO DE'MARCO SMITH, and COREY
HAKEEM FORD, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NATISHA LANIECE LOWE,

Respondent-Appellant,

and

FRANK CURTIS PARKER,

Respondent.

In the Matter of ROSHELL RE'NIECE LOWE,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

FRANK CURTIS PARKER,

Respondent-Appellant,

and

NATISHA LANIECE LOWE,

Respondent.

UNPUBLISHED
December 8, 2009

No. 291856
Wayne Circuit Court
Family Division
LC No. 07-467518

No. 291859
Wayne Circuit Court
Family Division
LC No. 07-467518

Before: Servitto, P.J., and Fort Hood and Stephens, JJ.

PER CURIAM.

In Docket No. 291856, respondent Natisha La’Niece Lowe appeals as of right from the trial court’s order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). In Docket No. 291859, respondent Frank Curtis Parker appeals as of right from the same order terminating his parental rights to Roshell Re’Niece Lowe under §§ 19b(3)(g) and (h). We affirm.

I. Docket No. 291856

Respondent Lowe argues that clear and convincing evidence did not support the termination of her parental rights. Because she fails to challenge the trial court’s termination of her parental rights under § 19b(3)(g), she has waived appellate review of the court’s decision based on that provision. See *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). In any event, clear and convincing evidence was presented to justify terminating Lowe’s parental rights under all three statutory bases on which the trial court relied, §§ 19b(3)(c)(i), (g), and (j). MCR 3.977(J); *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004).

The trial court assumed jurisdiction over Roshell and Ke’Marco based on Lowe’s no contest plea to allegations that she filed a false police report indicating that they had been kidnapped, that she had marijuana in her possession when she attempted to attend a court hearing, and that it was contrary to the children’s safety to remain in Lowe’s care. The trial court assumed jurisdiction over Corey after Lowe admitted possessing marijuana when she came to court in April 2007 and to having several outstanding warrants.

At the time the trial court terminated Lowe’s parental rights, her problems involving marijuana continued to be an issue based on her failure to comply with drug screens. In 2008, Lowe provided only 3 out of 21 requested drug screens, and only two were provided on the correct days. Lowe also refused to comply with the trial court’s order that she submit a drug screen after a hearing on January 5, 2009. During the termination proceedings, Lowe provided only one out of five drug screens on the correct day. She also became irate when her probation officer asked her to provide a drug screen less than one month before the trial court terminated her parental rights. Thus, in the length of time that the children remained temporary court wards, Lowe failed to adequately address her drug-related issues.

Lowe also failed to maintain appropriate housing. Although her residence on Cope Street was deemed appropriate for the children, Lowe stopped residing at that home in February 2009. She did not provide the caseworker with an alternate address or disclose that she no longer slept at the Cope Street home. When Lowe returned to the home, she discovered that the roof was caving in and a pipe had burst. At the time the trial court terminated her parental rights, Lowe had no home that was deemed suitable for the children. In addition, she failed to provide appropriate proof of employment and told her probation officer that she was unemployed. Lowe’s failure to substantially comply with her service plan was evidence that the children

would be at risk of harm if returned to her care. *In re Trejo*, 462 Mich 341, 346 n 3; 612 NW2d 407 (2000).

Further, despite participating in anger management counseling for a significant length of time, Lowe continued to have outbursts when she became frustrated or upset, often in the children's presence. According to the caseworker, security personnel had to be called because of Lowe's outbursts on four occasions and Lowe flew "off the handle" when she became overwhelmed or frustrated. Lowe's conduct when her probation officer asked her to submit to a drug test exemplified her behavior. Thus, despite the years of services and anger management counseling, Lowe was still unable to control her emotions and behave appropriately. Accordingly, the trial court did not clearly err in finding that termination of Lowe's parental rights was justified under §§ 19b(3)(c)(i), (g), and (j).

Lowe also argues that termination of her parental rights was not in the children's best interests. Although the trial court did not explicitly make such a determination, it is clear from the record that the court believed that termination of Lowe's parental rights was in the children's best interests because she was not capable of addressing the children's special needs, and the record supports this conclusion. MCL 712A.19b(5); see also *In re Rood*, 483 Mich 73, 102 n 43; 763 NW2d 587 (2009). Moreover, even at the time of the termination hearing, Lowe failed to comply with drug testing and provided only one out of five drug screens on the correct days. As the trial court recognized, the fact that Lowe forgot about the drug screens indicates that she did not take the proceedings seriously and that regaining custody of her children was not a priority. Further, despite the years of anger management therapy, Lowe continued to engage in inappropriate outbursts and was unable to control her emotions and conduct herself appropriately. Considering the length of time the children had been in care as well as Ke'Marco's and Corey's special needs, termination was in the children's best interests.

II. Docket No. 291859

Respondent Parker argues that the trial court erred in terminating his parental rights under § 19b(3)(g). However, the record discloses that the trial court also terminated Parker's parental rights under § 19b(3)(h), and he fails to challenge that decision. Therefore, appellate review of the trial court's decision under that subsection is waived. In any event, termination was proper under both § 19b(3)(g) and § 19b(3)(h). MCR 3.977(J); *In re BZ*, *supra* at 296.

Parker is serving a sentence of life imprisonment for a first-degree murder conviction. He had not even minimally provided for Roshell at any time in her life and, because of his life sentence, he is unable to provide care and custody for Roshell at any time in the future. Thus, the trial court did not clearly err in terminating Parker's parental rights under §§ 19b(3)(g) and (h). Further, although Parker contends that his family should be contacted as a possible placement for Roshell, the record indicates that the DHS was looking into placing Roshell with Parker's mother at the time of the March 10, 2009, hearing.

Termination of Parker's parental rights was also in Roshell's best interests. Although the trial court did not explicitly determine that termination was in Roshell's best interests, this determination can be gleaned from the record. MCL 712A.19b(5); see also *In re Rood*, *supra* at 102 n 43. As previously recognized, Parker is incarcerated for life and has no possibility of parole. Thus, he is unable to provide for Roshell now or at any time in the future. At the time of

the termination hearing, the DHS was looking into placing Roshell with Parker's mother. Thus, a permanent placement for her was being explored. Accordingly, termination of Parker's parental rights was clearly in Roshell's best interests.

Affirmed.

/s/ Deborah A. Servitto
/s/ Karen M. Fort Hood
/s/ Cynthia Diane Stephens