

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 14, 2010

In the Matter of WILSON/JORDAN, Minors.

No. 296507
Oakland Circuit Court
Family Division
LC No. 09-756578-NA

Before: TALBOT, P.J., and METER and DONOFRIO, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court order terminating her parental rights to the four minor children under MCL 712A.19b(3)(g) (without regard to intent, failure to provide proper care or custody) and (j) (reasonable likelihood of harm if returned to parent). Because, the trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination, and, termination of respondent's parental rights was in the best interests of the children, we affirm.

Respondent first argues that the trial court clearly erred in finding clear and convincing evidence to support termination of her parental rights under MCL 712A.19b(3)(g) and (j). This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). Contrary to respondent's argument, the facts in this case are clearly distinguishable from those in *In re Moore*, 134 Mich App 586; 351 NW2d 615 (1984). Here, respondent did not voluntarily bring her children to the DHS. Petitioner removed the children from respondent because two of them tested positive for cocaine at birth, respondent had refused to cooperate or benefit from in-home services, and she continued to use cocaine. Most importantly, she had stopped providing necessary medical treatment for one of her children, which placed him in an extremely precarious situation. She was addicted to crack cocaine and her relationships were infused with domestic violence. Thus, we conclude that the services included in the parent/agency agreement "were actually needed to improve neglectful behavior." *Moore*, 134 Mich App at 598. Also unlike in *Moore*, the trial court in this case did not base its decision on respondent's failure to comply with the parent/agency agreement. The court's decision was based on respondent's history and her conduct during this case. The trial court did not clearly err in finding clear and convincing evidence to support termination under MCL 712A.19b(3)(g).

Further, the trial court did not clearly err in finding clear and convincing evidence to support termination under MCL 712A.19b(3)(j). This case is clearly distinguishable from *In re Boursaw*, 239 Mich App 161, 168-178; 607 NW2d 408 (1999), overruled on other grounds, *In re*

Trejo, 462 Mich 341, 353; 612 NW2d 407 (2000).. In *Boursaw*, addressing § (3)(j), the Court found “no evidence in the record that respondent ever struck or purposefully harmed the child in any way.” *Boursaw*, 239 Mich App at 169. Here, there was significant evidence that respondent had harmed her children. Two of them were born with cocaine in their systems, and respondent had stopped providing one of her children with the necessary medications to keep him alive. She admitted that she had failed to properly care for her children because she was “too busy trying to get high.” During this case, despite being ordered not to, she continued to use crack cocaine while pregnant and admitted that she did not think about the effect that crack cocaine would have on her unborn child. The trial court did not clearly err in finding that the evidence demonstrated that there was a reasonable likelihood that respondent’s children would be harmed if they were returned to her home.

Finally, the trial court did not clearly err in finding that termination of respondent’s parental rights was in the best interests of the children. MCL 712A.19b(5); *Trejo*, 462 Mich at 356-36. At the best interests hearing, respondent had relapsed, had left the outpatient program without completion, refused to sign a release for medical information, and had checked herself into the hospital because she was having hallucinations. She was on medication for schizoaffective disorder and depression, and she had threatened to kill herself and her unborn baby. She was homeless and unemployed. And importantly, respondent waived the best interests determination and stipulated that it would be in the best interests of the children for her rights to be terminated. After hearing respondent’s testimony and stipulation, and considering the facts and exhibits concerning events that had recently occurred, the trial court correctly found that termination of respondent’s parental rights was in the best interests of the children.

Affirmed.

/s/ Michael J. Talbot
/s/ Patrick M. Meter
/s/ Pat M. Donofrio