STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of WAINSCOTT, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHRISTOPHER WAINSCOTT,

Respondent-Appellant,

and

ANNETTE WAINSCOTT,

Respondent.

UNPUBLISHED
January 25, 2011

No. 299229
Jackson Circuit Court
Family Division
LC No. 09-001604-NA

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DEPARTMENT OF HUMAN SERVICES,

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ANNETTE WAINSCOTT,

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Before: METER, P.J., and M. J. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to their four minor children pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j). We affirm.

Respondent-mother first claims that it was fundamentally unfair to terminate her parental rights under § 19b(3)(c)(*i*). She asserts that termination came about as a result of drug use and that she was unable to engage in inpatient treatment for a variety of reasons. The treatment plan required her to wean herself from methadone so she could enter into the inpatient program she desired. She did wean herself in November of 2009, but she never sought inpatient treatment or successful completion of parenting classes, and she did not work any further toward reunification with her children before her incarceration. Likewise, respondent-father failed to substantially comply with the provisions of his parent-agency agreement that were established to rectify the conditions that led to adjudication. Accordingly, the trial court did not clearly err in finding that § 19b(3(c)(*i*) was established by clear and convincing evidence. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We also do not believe that the trial court clearly erred in finding that § 19b(3)(g) had been established by clear and convincing evidence. Contrary to respondents' arguments, the court is not precluded from considering prior conduct and behavior in determining whether the parents fail to provide proper care or custody and would be unlikely to do so within a reasonable time considering the ages of the children. Therefore, the court did not clearly err in finding that, based on their conduct or capacity, the children would likely be harmed if returned to respondents' care under § 19b(3)(j). The court may consider how a parent treats one child to be probative of how that parent might treat another child. See, generally, *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995); see also *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001).

Lastly, we find no clear error in the trial court's determination that termination of respondent-mother's parental rights was in the best interest of the children. MCR 3.977(K); *In re Jenks*, 281 Mich App 514, 516-517; 760 NW2d 297 (2008). As the trial court indicated, respondents simply did not make any progress during the thirteen months the children had been under the court's jurisdiction. Based on respondents' past behavior, even though they apparently wanted to improve, there were "no guarantees" that they would, and in the meantime, the children needed permanence and stability, they could not just "wait to see how things turn out." We agree.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael J. Kelly
/s/ Amy Ronayne Krause