

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 19, 2011

In the Matter of BENNETT, Minors.

No. 301514
Berrien Circuit Court
Family Division
LC No. 2007-000124-NA

Before: SAWYER, P.J., and WHITBECK and OWENS, JJ.

MEMORANDUM.

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

To terminate parental rights, the court must first find that at least one of the statutory grounds set forth in MCL 712A.19b(3) was proven by clear and convincing evidence. MCL 712A.19b(3); *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination of parental rights is established, the court must terminate if it finds that termination of parental rights is in the children's best interests. MCL 712A.19b(5). This Court reviews a trial court's finding that a ground for termination was established by clear and convincing evidence for clear error. MCR 3.977(K); *In re JK*, 468 Mich at 209.

The trial court did not clearly err in finding that the statutory grounds for termination were proven by clear and convincing evidence. The conditions that led to adjudication included respondent's inadequate parenting skills and housing instability. Clear and convincing evidence established that both conditions continued to exist at the time of the termination hearing. There was testimony from the foster care workers that, even after respondent participated in services, there continued to be concerns about her ability to care for both children at the same time. Respondent continued to need prompting regarding issues such as diaper changes and allowing the children to wander too far at the park. In addition, the most recent parenting assessment concluded that, despite the services, respondent lacked any significant parenting skills or insight. Furthermore, respondent moved frequently throughout the case, never maintaining stable housing appropriate for the children, and failed to complete counseling to address her emotional instability. Respondent also continued to associate with her family, despite its involvement with substance abuse and gang activity, and there was a reasonable likelihood the children would not be safe if returned to her care.

We also find no clear error in the trial court's finding that termination was in the children's best interests. By the time of the termination hearing, the children had been in foster care for almost two years. Although there was evidence that respondent clearly loved the children and made efforts toward reunification, the record supported the court's finding that, despite her efforts, respondent simply could not provide the children with the stability and safety they require.

We are concerned that the judge did not comply with MCR 3.977(I)(1). That rule requires the court to "file its decision within 28 days after the taking of final proofs, but no later than 70 days after commencement of the hearing to terminate parental rights." Here the judge filed her decision 49 days after the taking of final proofs and 84 days after the commencement of the hearing. Given the large part of their lives these children had spent in foster care up to that time and their need for permanence, such delays in violation of the court rule were not helpful and should be avoided in the future.

Affirmed.

/s/ David H. Sawyer
/s/ William C. Whitbeck
/s/ Donald S. Owens