

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
October 11, 2011

In the Matter of PRICE, Minors.

No. 302693  
Wayne Circuit Court  
Family Division  
LC No. 08-483817

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Before: MURPHY, C.J., and TALBOT and MURRAY, JJ.

PER CURIAM.

A. Kirby challenges the order terminating her parental rights to her three minor children. Kirby's rights were terminated based on the trial court's determination that the conditions leading to adjudication continued to exist<sup>1</sup>, the failure to provide care and custody<sup>2</sup>, and the existence of a reasonable likelihood of harm if the children were returned to Kirby's custody.<sup>3</sup> We affirm.

Termination of parental rights is deemed to be appropriate when a petitioner demonstrates that one or more grounds for termination exist by clear and convincing evidence.<sup>4</sup> This Court reviews the trial court's findings for clear error.<sup>5</sup>

The trial court did not clearly err in finding clear and convincing evidence to satisfy the statutory grounds for termination. The children were removed from Kirby's custody in December 2008 after Kirby lost her housing and the family was rendered homeless. There were several substantiated Children's Protective Services referrals documented involving Kirby and a demonstrated failure to benefit from services previously provided. Kirby entered into a parent agency agreement that required her participation in counseling, parenting classes, visitation, and

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<sup>1</sup> MCL 712A.19b(3)(c)(i).

<sup>2</sup> MCL 712A.19b(3)(g).

<sup>3</sup> MCL 712A.19b(3)(j).

<sup>4</sup> *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re B and J*, 279 Mich App 12, 17; 756 NW2d 234 (2008).

<sup>5</sup> MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

the necessity of obtaining suitable housing and employment. Courses in anger management and drug screens were later included in the agreement. Kirby was sporadically compliant with the requirements of the parent agency agreement, but her progress and cooperation were inconsistent. After five referrals, Kirby did complete the assigned parenting classes and became more consistent in her scheduled visitation with the children during the final two months of the proceedings. Kirby also completed therapy and anger management counseling and obtained suitable housing.

Despite limited progress, many of Kirby's identified issues remained unresolved. A parent must benefit from services in order to provide a safe, nurturing home.<sup>6</sup> Kirby could not consistently control the children's behavior at visitation and she was never permitted unsupervised or off-site visits. Kirby was observed yelling at the children and inconsistent in her verbal directions. She failed to demonstrate skills obtained through her parenting class participation and, on one occasion, using inappropriate physical discipline with one of the children. Kirby's inability to control her anger remained a substantial concern. Kirby's attendance at visitation was inconsistent resulting in the children engaging in disruptive behavior when she did not appear. Kirby also continued to use marijuana. She missed the majority of her drug screens and repeatedly tested positive for marijuana, including two occasions during the month of the final hearing. Kirby also failed to obtain verifiable employment and had seven different residential addresses since 2008. The trial court provided Kirby with an adequate opportunity to deal with the noted issues and concerns. Kirby was also provided with a range of appropriate services. Given her lack of meaningful and consistent progress it was highly unlikely that Kirby would be capable of providing proper care for the children within a reasonable time period.

We also find no clear error in the court's determination that termination was in the children's best interests.<sup>7</sup> Although Kirby demonstrated great affection for her children and wanted to provide them with a good home, despite sufficient time and services, she was unable to overcome her problems with substance abuse, develop the necessary parenting skills, manage her anger, and obtain stability in housing or employment. We find that the trial court did not clearly err in its best-interests determination.

Affirmed.

/s/ William B. Murphy  
/s/ Michael J. Talbot  
/s/ Christopher M. Murray

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<sup>6</sup> *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005), superseded in part on other grounds *In re Hansen*, 285 Mich App 158, 163; 774 NW2d 698 (2009), vacated by 486 Mich 1037 (2010).

<sup>7</sup> MCL 712A.19b(5); MCR 3.977(H)(3)(b); *Trejo*, 462 Mich at 356-357; *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).