

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 10, 2011

In the Matter of D. MILES, M. SANDERS, III,
and M. SANDERS, Minors.

No. 304099
Berrien Circuit Court
Family Division
LC No. 2010-000147-NA

Before: JANSEN, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals by right the circuit court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(g), (j), and (l). We affirm.

To terminate parental rights, the circuit court must find that at least one of the statutory grounds set forth in MCL 712A.19b has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Once the petitioner has established a statutory ground for termination, the circuit court shall order termination of parental rights if it finds that termination is in the best interests of the children. MCL 712A.19b(5). We review for clear error the circuit court's findings in a termination case. MCR 3.977(K).

Respondent argues that petitioner failed to prove the statutory grounds for termination by clear and convincing evidence and that termination of her rights was not in the children's best interests. We cannot agree. The evidence established that respondent failed to provide proper care and custody of the twins by repeatedly missing doctor's appointments while pregnant, failing to follow the instructions of the hospital staff to feed them every 2 or 3 hours after their birth, and failing to feed them the correct formula. Moreover, after the twins were admitted to the hospital for failure to thrive and then released, respondent failed to take the twins to their follow-up appointment, fled the state, and did not inform Child Protective Services (CPS) of the children's whereabouts. In fact, respondent did not contact CPS until 18 days after she failed to bring the twins to their doctor's appointment. Further, although each child had lost approximately one pound and they weighed only three and four pounds, respectively, respondent thought that the twins were fine and looked healthy.

The circuit court properly determined that respondent, without regard to intent, failed to provide proper care and custody for her twins. Further, because respondent did not provide proper care and custody of the twins, used marijuana while pregnant with the older child, fled Michigan, and failed to notify CPS of the older child's whereabouts, the circuit court properly determined that respondent had also failed to provide proper care and custody of the older child.

We note that respondent had been provided numerous services to help her learn parenting skills, but still had not obtained the necessary skills to provide proper care for her children. The circuit court did not clearly err by finding that respondent had failed to provide proper care and custody for her children and that there was no reasonable expectation that she would be able to do so within a reasonable time considering the children's ages. MCL 712A.19b(3)(g). For the same reasons, the circuit court properly determined that there was a reasonable likelihood that the children would be harmed if they were returned to respondent's home. MCL 712A.19b(3)(j).

Moreover, there was clear and convincing evidence that respondent's parental rights to another child were previously terminated in February 2008. Thus, the circuit court did not clearly err by finding that respondent's parental rights to another child had been terminated. MCL 712A.19b(3)(l).

Nor did the circuit court err in its best-interests determination. Respondent failed to take the children to doctor's appointments, used a controlled substance while pregnant, failed to regularly feed the twins as directed, failed to use the appropriate formula, and failed to maintain contact with CPS regarding the children's well-being. Respondent was provided numerous services to help her improve her parenting skills, but the evidence established that these services did not rectify the situation and that respondent did not sufficiently benefit from them. See *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005). Although respondent argues that she should have been given additional time and services to further develop her parenting skills, there is no evidence to suggest that additional time or services would have resulted in a different outcome. Petitioner had been involved with respondent since 2008, when her parental rights to another child were terminated. In addition, petitioner was involved with respondent after the older child was born in 2009. That child was removed from respondent's care after his birth upon testing positive for marijuana. Respondent subsequently received numerous services, which included substance abuse assessments, a parenting class, the Baby Think It Over Program, counseling, a family reunification program, and residential treatment and placement. Although the older child was ultimately returned to respondent, respondent continued to struggle to provide him and the other children with the care and custody they needed to succeed. Despite the numerous services she received, respondent was simply unable to make the necessary progress. Any additional services would have been cumulative and not likely to yield a different result. In sum, we cannot conclude that the circuit court clearly erred by finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(K).

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Douglas B. Shapiro