

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARVIN DERICK CARD,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
August 23, 2005

Petitioner-Appellee,

v

AINER MEA DENT,¹

Respondent-Appellant.

No. 261478
Wayne Circuit Court
Family Division
LC No. 90-283715-NA

Before: Zahra, P.J., Cavanagh and Owens, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights under MCL 712A.19b(3)(g), (i), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). In the present case, petitioner offered clear and convincing evidence of statutory ground under MCL 712A.19b(3)(g). Respondent failed to provide proper care and custody because she failed to obtain any prenatal care and did not have a stable home or income when she gave birth. A respondent's prenatal treatment of a child is probative of neglect. *In re Baby X*, 97 Mich App 111, 116; 293 NW2d 736 (1980).

It was also reasonably likely respondent could not provide proper care in a reasonable time. Her past neglect of her older children evidenced the way she might treat her youngest child. See *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). Respondent did not use illegal drugs during her last pregnancy, and there was no clear evidence she had used them since 2001.

¹ The spelling "Mea" was used in the termination order and referee recommendation and report; however, the other documents in the lower court record indicate respondent's middle name is "Mae" as does respondent's brief on appeal.

The evidence regarding her recent mental health and criminal record was unclear. However, she only recently obtained her own housing, even if her unverified testimony was believed, and she had unverified income from unstable work. Most significantly, she failed to contact the foster care worker, as requested, to verify her housing and check on her child. This failure, along with her inability to obtain any prenatal care, indicated that respondent was still incapable of meeting a child's basic needs, despite the extensive services she received in the past and the several years she had since to obtain the necessary stability. The lower court did not err when it found clear and convincing evidence of statutory ground for termination under MCL 712A.19b(3)(g).

The lower court also did not err when it found clear and convincing evidence under MCL 712A.19b(3)(i). Respondent does not dispute on appeal that her parental rights to other children were terminated because of serious neglect or abuse. Rather, she argues that she was rehabilitated. While this may be true regarding substance abuse, the record clearly indicates that her rights were also terminated because of her unstable housing, income, and general lifestyle, problems that continued through the present proceedings. Petitioner offered clear and convincing evidence that prior efforts failed to rehabilitate respondent.

Finally, there was clear and convincing evidence that the child was likely to be harmed if returned, under MCL 712A.19b(3)(j), because respondent neglected her older children, failed to obtain prenatal care, and did not resolve her stability problems.

Respondent also argues on appeal that termination was against the child's best interests. When a lower court finds a statutory ground for termination, it must terminate parental rights unless termination was clearly against the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). Respondent cites her love for the child. However, she did not make the effort necessary to get prenatal care or check on the child while he was in foster care. Further, the child was removed as a newborn and, therefore, was unlikely to feel any attachment to respondent. See *In re AH*, *supra* at 89. The lower court did not err when it held that termination was not against the child's best interests and terminated respondent's parental rights.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens