

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAYVAUGHN LEON SLY,
SHANTANIA MARIE SLY, DEANNA BARNES,
and DEAUNA BARNES, Minors.

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

UNPUBLISHED
April 6, 2006

Petitioner-Appellee,

v

MARTHA LORAIN BARNES,

No. 265329
Wayne Circuit Court
Family Division
LC No. 04-427212-NA

Respondent-Appellant,

and

JAMES LEVORN SLY,

Respondent.

Before: Smolenski, PJ, and Owens and Donofrio, JJ.

MEMORANDUM.

Respondent-appellant 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.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent-appellant's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The condition of adjudication to which respondent-appellant admitted was her one-time inappropriate physical discipline of Jayvaughn, but termination was based on respondent-appellant's untreated mental instability, which became a substantiated additional condition of adjudication for which respondent refused to take medication. Therefore, the trial court should have terminated respondent-appellant's parental rights under subsection 19b(3)(c)(ii) instead of subsection 19b(3)(c)(i), but reversal is not required because that subsection was established by the evidence. Respondent-appellant was emotionally unstable. She had unexplained mood swings and carried concern for her children to

psychotic levels. She was extremely stressed by parenting the four children alone, had paranoia and abnormal mistrust of others, and a thought disorder. Although she was able to physically provide for the children, being parented by a mother with the instabilities respondent-appellant exhibited would clearly have negative emotional and psychological effects on the children. The evidence clearly showed that respondent-appellant was unable to provide proper emotional and psychological care or custody for her children, and that they would be harmed if returned to her care. Respondent-appellant refused to address her mental instability with medication for nine months after medication was recommended, so there was no reasonable expectation that she would rectify the additional condition of adjudication or become able to provide proper care or custody for her children within a reasonable time.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children were bonded to respondent-appellant, they wanted to return to her, and she was able to provide for their physical needs, but would harm them emotionally and psychologically if she parented them. Had respondent-appellant taken steps to become mentally stable, temporary alternate custody may have been appropriate, but she showed no indication that she would comply with psychiatric services and termination was in the children's best interests.

Affirmed.

/s/ Michael R. Smolenski

/s/ Donald S. Owens

/s/ Pat M. Donofrio