

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAYA MARIE HERVEY,
ISAAH LAMONT MURRAY, ALONZO AMON
HEATH, JACOB WARD, APRIANNA MARIE
MURRAY, and SEAN EUGENE WARD, JR.,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LORETTA LYNN MURRAY,

Respondent-Appellant.

UNPUBLISHED

May 9, 2006

No. 265003

Calhoun Circuit Court

Family Division

LC No. 03-002500-NA

Before: White, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

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.

The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions of adjudication were domestic violence, substance abuse, and deficient parenting skills. The trial court record supplies ample evidence that respondent's difficulty in appropriately parenting the children continued to exist. She did not successfully complete parenting class, and her instructor noted a lack of evidence that respondent could apply the information learned. During visits with the children, which were chaotic, respondent did not interact with the older children, failed to address inappropriate behavior, and kept Jacob confined in an infant seat that was too small for him. Respondent's therapist observed no change in respondent's parenting from the time of the therapist's initial involvement with respondent, more than one year before the commencement of this matter, until respondent's final visit with the children in April 2005. The record also supports the trial court's conclusion that the issue of domestic violence continued to exist, as respondent continued to live

with and intended to marry her partner of several years, Sean Ward,¹ who, according to his therapist, made “very minimal” progress concerning domestic violence and discontinued sessions in December 2004. The foster care worker in this matter noted a report that Mr. Ward and respondent were physically fighting as recently as December 2004 or January 2005. The evidence was also adequate to support the conclusion that respondent’s substance abuse problem continued to exist, as she missed numerous drug screens and failed to participate in NA or AA as recommended in her psychological evaluation.

This case is notable for the duration of services provided to respondent. She received homemaker and wraparound services beginning in April 2001, and received parenting assistance from April 2002 until the removal of the children in July 2003. During the instant case, respondent participated in parenting classes, which she did not successfully complete, and participated (with poor attendance) in counseling addressing, among other things, how to provide structure and discipline for the children. Her therapist testified that respondent mother had reached her capacity to benefit, but the family was not close to reunification. Further, despite Mr. Ward’s minimal progress in domestic violence and anger management counseling, his unilateral discontinuation of therapy in December 2004, and respondent’s own therapist’s advice that if she remained with him and he did not participate in services it could affect her ability to get her children back, respondent continued to live with Mr. Ward and testified at the termination trial that she intends to marry him. Under these circumstances, we are not persuaded that the trial court made a mistake by finding no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i); *In re Terry*, 240 Mich App 14, 22-23; 610 NW2d 563 (2000).

The same evidence equally established that there is no reasonable likelihood that respondent would be able to provide proper care and custody for the minor children within a reasonable time, MCL 712A.19b(3)(g), and that there is a reasonable likelihood that the children would be harmed if returned to her home. MCL 712A.19b(3)(j). Thus, the trial court also did not clearly err by terminating respondent’s parental rights under statutory subsections (3)(g) and (3)(j).

On appeal, respondent complains that the trial court ignored the testimony of Mark Stark, who assisted her through Families First while she had the infant Jacob, born during these proceedings, in her care. Mr. Stark felt that respondent took very good care of Jacob and met all of his needs. He observed a visit of respondent with all of the children and felt that she behaved appropriately and could handle all six of the children at once. However, Mr. Stark’s testimony was contradicted by that of the foster care worker as well as the therapists of both respondent mother and Mr. Ward. It was the prerogative of the trial court to decide what testimony to credit, and the trial court’s assessment of the evidence is given deference on appeal. *In re Miller, supra* at 337.

¹ Sean Ward was a respondent in the lower court and his parental rights to Jacob Ward and Sean Ward, Jr. were terminated in the order now on appeal. However, Mr. Ward did not appeal the termination of his parental rights and is not a party to this appeal.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children. MCL 712A.19b(5). The youngest of the children, Jacob, was in the custody of respondent mother for five months after his birth, and at the time of termination had been in foster care for more than one year. The four oldest children have special needs, and respondent's therapist indicated that respondent was not up to the task of meeting their needs. The foster care worker testified that the children have shown "amazing" growth and development since they have been in stable homes. While the testimony indicated that respondent loves the children and has done the best she could, it does not appear that she is able to meet their needs, as her difficulties in parenting remain unchanged, and she continues to live with and intends to marry Mr. Ward, who did not successfully address his issues of domestic violence.

Affirmed.

/s/ Helene N. White
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot