

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DESTINI KAY MCNAMARA
and NATASHA MCNAMARA, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

COLLEEN MCNAMARA,

Respondent-Appellant.

UNPUBLISHED

June 7, 2007

No. 274400

Wexford Circuit Court

Family Division

LC No. 03-017553-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). For nearly five months before the termination hearing, respondent failed to contact petitioner regarding the children. During this time respondent also failed to participate in services and neglected to attend court hearings. Based upon these undisputed facts, there was clear and convincing evidence to support termination of respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii).

Similarly, there was clear and convincing evidence to support termination of respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i) and (g). After respondent's arrest, the children were initially left in the care of respondent's 15-year-old daughter. The teenager and her younger sisters were living in nothing more than a rundown shack. The home was dirty and had inadequate heating, open-studs walls and exposed plumbing and electrical. When petitioner learned of the situation, the children were taken into care. In their foster home, the children exhibited signs of posttraumatic stress and reactive attachment disorders. It was obvious that, while in respondent's care, they had been subjected to severe abuse and neglect. At the time of the termination hearing 17 months later, respondent still was not in a position to provide proper care and custody. She did not have suitable housing or a legal source of income, had done nothing to improve her parenting skills, and had failed to address her substance abuse issues. Respondent failed to comply in any meaningful way with the treatment plan. Failure to comply

with the treatment plan is evidence of failure to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

This same body of evidence was sufficient to support the court's conclusion that the children would be harmed if returned to respondent's care. MCL 712A.19b(3)(j). The girls had already suffered severe emotional damaged as a result of respondent's abuse and neglect. Because nothing had changed between the time the girls came into care and the termination hearing, they would likely be at significant risk for further harm.

Given the evidence of respondent's past failure to provide proper care and custody and the strong likelihood of future harm if the girls were returned to respondent's custody, the trial court also did not clearly err in determining that the girls' best interests did not preclude termination of respondent's parental rights. MCL 712A.19b(5); *Trejo, supra* at 354.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio