

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AUTUMN KRISTINE
O'CHADLEUS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CRISYTAL LYNN HUGHES,

Respondent-Appellant,

and

RICHARD THOMAS HUGHES,

Respondent.

In the Matter of JOSHUA LEE EVERHART,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CRISYTAL LYNN HUGHES,

Respondent-Appellant,

and

JAMES GARLINGER,

Respondent.

UNPUBLISHED
January 8, 2008

No. 279179
Macomb Circuit Court
Family Division
LC No. 2007-000178-NA

No. 279211
Macomb Circuit Court
Family Division
LC No. 2007-000177-NA

Before: Fitzgerald, P.J., and Markey and Smolenski, JJ.

PER CURIAM.

Respondent mother appeals by right from the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(g), (j), and (l). We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(E).

On February 24, 2007, petitioner obtained an order placing Autumn (born 9/3/99) and Joshua (born 10/18/96) into protective custody following the authorization of an original petition for permanent custody. Respondent had a history of substantiated child protective services referrals dating back to 1990. She voluntarily released her parental rights to Angelina Mariah Carden in the early 1990s and her parental rights to Thomas Carden were terminated on April 29, 1999. Petitioner substantiated six referrals against respondent between 1992 and 2003. During that time, petitioner offered her services to address issues of unemployment, homelessness, drug abuse and domestic violence. Respondent has been unable to overcome any of these problems.

On appeal, respondent argues that the requisite statutory grounds for termination were not established. We disagree.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been proved by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court must terminate parental rights if it finds a statutory ground for termination is established unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. *Id.* at 356-357; MCR 3.977(J). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Miller* 433 Mich 331, 337; 455 NW2d 161 (1989). We must recognize the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*; MCR 2.613(C).

The trial court did not clearly err in terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g). When Autumn and Joshua were removed from her care, respondent did not have suitable housing. Respondent and her children were living in a motel room sharing one full sized bed with little clothing and were without adequate provisions or food. Respondent was unemployed and unable to provide for her family throughout the duration of the case.

Although she claimed to have been saving money to get a home, respondent spent her savings to resolve obligations for failing to appear in court on traffic offenses and truancy charges. Respondent's lack of stable housing and frequent residential moves were disruptive to Autumn and Joshua, causing them to miss many days of school and to change schools often. Respondent contended she needed to move frequently to escape domestic violence. But in over fifteen years, she never resolved the causes of instability in her life.

There was domestic violence in all of respondent's relationships in the past ten to fifteen years, and despite all the services she has received, respondent could not escape the domestic

violence that dominated each of her intimate relationships. Respondent had been in a long term, violent relationship with one man for eight years. During that time, the children had been regularly exposed to domestic violence. Respondent was verbally abused and was called derogatory and profane names. The man tried to run over respondent with his car while Autumn and Joshua watched. Respondent never resolved these domestic violence issues, even after the end of her romantic relationship with that man. Respondent sustained a black eye only one week before petitioner's investigation in February 2007.¹ Most recently, she admitted to being involved in a violent relationship for three months with her live-together boyfriend. Autumn and Joshua also witnessed domestic violence in her relationship with the ex-boyfriend. There was no evidence that respondent could provide proper care and a suitable home environment that did not include dangerous partners or domestic violence.

Additionally, although respondent suspected that Autumn may have been sexually abused, she failed to report her suspicions to the appropriate law enforcement authorities. Instead of making efforts to protect Autumn, she insisted that law enforcement would not believe her, even though she admitted that she found her live-in partner in the bed next to Autumn masturbating when Autumn was three or four years old. Despite her own personal observations and the results of Autumn's sexual abuse assessment which indicated she had characteristics of a sexual abuse victim, respondent stated she was confused as to whether Autumn had been sexually abused. Respondent also admitted that the children saw her live-in partner using cocaine and marijuana. In allowing an unsuitable caregiver like her live-in partner take care of her children, and take Autumn out alone, respondent failed to provide proper care and custody.

Finally, although respondent enrolled herself in an intensive outpatient drug treatment program in August 2006, she admitted to using crack cocaine again in January 2007. Respondent's drug use interfered with her ability to properly parent and contributed to the instability in Autumn's and Joshua's lives. Her recent drug use after completing drug treatment showed that her attempts to resolve drug issues were unsuccessful.

Respondent next argues that she never harmed her children and that no evidence was presented that she would harm them if they were returned to her care. Thus, she claims termination of her parental rights under MCL 712A.19b(3)(j) was clearly erroneous. We disagree. The proofs established that Autumn and Joshua were at risk of emotional harm if they continued to be exposed to domestic violence and that respondent lacked the insight or ability to avoid violent domestic relationships.

Respondent's failure to contact law enforcement and end her relationship with her live-in partner after observing him sexually abuse Autumn showed she did not have the insight or ability needed to protect her children from such future harm. Her statement that she would not allow Autumn to have future contact with the live-in partner was not convincing in light of her past

¹ Respondent told petitioner's investigator that she got the black eye when a male friend bashed her head into a dashboard after learning that she was using cocaine. Respondent later denied having said that the friend injured her. She testified that her ex-boyfriend gave her the black eye one week before moving into the motel.

actions. Likewise, respondent's long-term relationship with the live-in partner, and his continued involvement with Autumn, showed that respondent could not protect Autumn or Joshua from the type of harm that he or someone like him posed. *In re Sprite*, 155 Mich App 531, 536; 400 NW2d 320 (1986).

Next, respondent's parental rights to Autumn and Joshua were properly terminated under MCL 712A.17b(3)(l) given the undisputed evidence that her parental rights to Thomas Carden were terminated on April 29, 1999. Considering respondent's history of prior termination of parental rights, lack of insight regarding dangerous men and violent relationships, and failure to benefit from the services previously offered by petitioner, Autumn and Joshua would be at risk of harm if returned to her care.

Finally, the evidence did not clearly show that termination of respondent's parental rights was contrary to the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. The trial court correctly concluded that the children were entitled to permanency and stability.

We affirm.

/s/ E. Thomas Fitzgerald

/s/ Jane E. Markey

/s/ Michael R. Smolenski