

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JA'QUAN WILLIAM
CLAYBRON, Minor.

DEPARTMENT OF HUMAN SERVICES,

UNPUBLISHED
October 21, 2008

Petitioner-Appellee,

and

ORLANDO HAMM,

Appellee,¹

v

No. 284948
Wayne Circuit Court
Family Division
LC No. 00-394319-NA

LATIFFANY S. CLAYBRON,

Respondent-Appellant.

Before: Servitto, P.J., and Donofrio and Fort Hood, JJ.

PER CURIAM.

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

The trial court did not clearly err in finding that 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). Respondent failed to provide proper care and custody of the child by using marijuana while she was pregnant with him. See *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987); *In re Gentry*, 142 Mich App 701, 708; 369 NW2d 889 (1985). Furthermore, the

¹ Although the Department of Human Services filed the initial petition in this matter, Orlando Hamm, the child's father, filed the supplemental petition upon which respondent's parental rights were terminated. The child has been in the care of the father and his fiancée since early in these proceedings.

trial court did not clearly err by finding that there was no reasonable likelihood that she would be able to provide proper care and custody for him within a reasonable time considering his age. MCL 712A.19b(3)(g). The evidence indicated that substance abuse has been a problem for respondent since 2001. She received substance abuse treatment in prior child protective proceedings concerning two other children, as well as in the instant proceedings. However, respondent did not resolve her substance abuse problem, as demonstrated by her positive screen for marijuana after the first day of the termination hearing. Her failure to resolve the problem over this lengthy period despite the services offered suggests that the problem is unlikely to be resolved in the foreseeable future. Further, respondent graphically demonstrated that, despite completing anger management classes, she continues to struggle with anger management when she physically endangered the child by intentionally slamming on her brakes while driving in front of the car in which he rode. She remained agitated and confrontational even in the presence of the police and falsely represented that the custody of the child with the fiancée of his father was illegal.

Respondent contends on appeal that termination was improper because she complied with her parent-agency agreement. However, this Court has explained that a parent must not just physically comply with a parent-agency agreement but must also benefit from it. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). The evidence of respondent's continuing drug use and volatile behavior clearly demonstrates that respondent did not benefit sufficiently to be a safe custodian for the child.

The trial court's termination of respondent's parental rights pursuant to MCL 712A.19b(3)(i) and (j) was also appropriate. The order terminating her parental rights to two other children was admitted into evidence in these proceedings. In the previous matter, the problems that brought the children into care included respondent's admitted daily marijuana usage. Despite rehabilitative efforts, respondent was still abusing drugs at the time of the previous termination. The child in the instant proceedings tested positive for marijuana at birth. Respondent again participated in rehabilitative services, without success. Termination of her parental rights under statutory subsection (i) was not clearly erroneous. Furthermore, the same evidence that establishes that there is no reasonable likelihood that respondent would be able to provide proper care and custody for the child within a reasonable time, MCL 712A.19b(3)(g), equally establishes that there is a reasonable likelihood that the child would be harmed if returned to her care, MCL 712A.19b(3)(j), and the trial court therefore did not clearly err by terminating her parental rights under this statutory subsection.

Finally, the trial court did not clearly err by finding that termination of respondent's parental rights was not clearly contrary to the best interests of the child. MCL 712A.19b(5). Respondent has a long-standing substance abuse problem, which she has not rectified despite the provision of services in the prior proceedings and in these proceedings. Also, despite completing anger management classes in these proceedings, respondent became involved in a confrontation in which she physically endangered the minor child and engaged in confrontational conduct with the child's legal custodian and with the police. The evidence quite strongly indicates that respondent poses risks to the safety of the child. Under these circumstances, the trial court did

not clearly err in its determination of the child's best interests.

Affirmed.

/s/ Deborah A. Servitto

/s/ Pat M. Donofrio

/s/ Karen M. Fort Hood