

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of PAIGE KATHERINE
FREDERICK and MCONILLY PAUL TUCKER,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEDORAH TUCKER,

Respondent-Appellant.

UNPUBLISHED

June 16, 2009

No. 290367

St Clair Circuit Court

Family Division

LC No. 07-000542-NA

Before: O'Connell, P.J., and Bandstra and Donofrio, JJ.

MEMORANDUM.

Respondent, Deborah Tucker, appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (c)(ii) (new conditions exist and no reasonable likelihood that conditions will be rectified within a reasonable time), and (g) (failure to provide proper care and custody). Because the trial court did not clearly err in finding that petitioner established the statutory grounds for termination of parental rights by clear and convincing evidence and that termination was in the best interests of the children, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court's findings of fact may not be set aside unless they are clearly erroneous, and this Court shall give regard to the trial court's special opportunity to judge the credibility of witnesses who appeared before it. MCR 2.613(C).

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The conditions leading to Paige's adjudication were that respondent was incarcerated, there was no one available to care for Paige after the arrest of respondent's boyfriend, Paige had a terrible diaper rash and fleabites all over her body, and the conditions of the home were deplorable. A new condition later led to Mconilly's adjudication, which was respondent's abandonment of the infant while she drank alcohol and used cocaine and marijuana. At the time of trial, respondent had just been released from jail again and was required to complete a 90-day treatment program as part of her probation. She was still not available to care

for her children and had no home in which to care for her children. Respondent did not attend counseling, despite three separate referrals, and admitted that, for the most part, she did not participate in services provided to her. To her credit, respondent completed some programs in jail. However, she did not show that she could provide a stable home environment for her children and would not be incarcerated again, leaving them without proper care. Although respondent completed substance abuse treatment while in jail and testified that she continued to attend treatment at the Huron House, she had no established period of sobriety outside jail or a treatment center. Paige had been in foster care for 15 months of her two and a half years and Mconilly was in foster care for seven of his eight months. The trial court did not err in finding that there was not a reasonable likelihood that respondent would be able to rectify the conditions leading to Paige's adjudication or the new condition that led to Mconilly's adjudication within a reasonable time, or that she would be able to provide proper care and custody for the children within a reasonable time, considering the children's very young ages.

The trial court also did not clearly err in determining that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); MCR 3.977(J). There was evidence that respondent was, at one point, bonded with Paige and Mconilly and that her parenting of them was appropriate. However, the children were very young and respondent had not had contact with them in some time, so their bond with her had weakened. Further, respondent had shown an inability to put her children's needs ahead of her own when she skipped visitation with Paige because of the weather and left Mconilly to use cocaine and marijuana. She did not participate in services, and it would take a significant amount of time before she would be able to have the children at home.

Affirmed.

/s/ Peter D. O'Connell
/s/ Richard A. Bandstra
/s/ Pat M. Donofrio