

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NEVAEH JEWEL ROTH, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BOBBIE SUE ROTH,

Respondent-Appellant,

and

MICHAEL UREN,

Respondent.

UNPUBLISHED

October 13, 2009

No. 291698

Baraga Circuit Court

Family Division

LC No. 08-001151-NA

Before: K. F. Kelly, P.J., and Jansen and Fitzgerald, JJ.

PER CURIAM.

Respondent Bobbie Sue Roth appeals as of right from the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

Respondent argues that petitioner failed to present clear and convincing evidence to establish the statutory grounds for termination. She also argues that termination of her parental rights was not in her child's best interests. We review for clear error the trial court's decision that a statutory ground for termination was established by clear and convincing evidence, and that termination of respondent's parental rights was in the child's best interests. MCR 3.977(J); *In re Trejo*, 462 Mich at 341, 356-357; 612 NW2d 407 (2000).

With respect to § 19b(3)(c)(ii), the supplemental petition did not identify what "other conditions" existed in support of this statutory ground, and the trial court did not specify in its decision what "other conditions" it believed existed. Nonetheless, any error in relying on this statutory ground was harmless because the trial court did not clearly err in finding that the remaining statutory grounds for termination were established by clear and convincing evidence. *In re Trejo, supra* at 360; *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

The evidence showed that respondent had a longstanding history of substance abuse and repeated incarcerations related to her substance abuse. The minor child tested positive for marijuana at birth, and respondent had two other children who had behavioral problems or disabilities that were suspected of being linked to respondent's substance abuse during pregnancy. Although respondent entered a treatment program in August 2008, she discontinued outpatient treatment on September 22, 2008, and was observed later that day consuming alcohol at a bar. She was incarcerated again in December 2008 for violating her probation, and was still incarcerated at the time of the termination hearing in March 2009. Respondent's repeated incarcerations and continued substance abuse prevented her from completing parenting classes and being able to exercise parenting time. The evidence supports the trial court's determination that the grounds for termination were established under §§ 19b(3)(c)(i), (g), and (j).

Further, considering that the child was removed from respondent's custody at birth, that respondent had not visited the child for at least six months before the termination hearing, and that respondent's continued legal troubles and unresolved substance abuse problem made it unlikely that she would be in a position to provide the stability and permanence that the child required in the near future, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Kathleen Jansen
/s/ E. Thomas Fitzgerald