

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of JAMES DION GRAY III,  
TYRAN BOISE GRAY III, and JABRON  
PETERSON, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHARONDA DENISE WARREN,

Respondent-Appellant,

and

JAMES GRAY, SR., and JAMEEL PETERSON,

Respondents.

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UNPUBLISHED

April 22, 2010

No. 294426

Ingham Circuit Court

Family Division

LC Nos. 08-002035-NA

08-002036-NA

08-002037-NA

Before: SAAD, P.J., and HOEKSTRA and MURRAY, JJ.

PER CURIAM.

Respondent Warren appeals from the circuit court's orders that terminated her parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (h). We affirm. We render this decision without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); MCR 3.977(G)(3) and (J). Respondent was arrested in August 2008 due to her involvement in a drive-by shooting. She placed the children with her mother under power of attorney. The children were not without proper custody or guardianship at that time, MCL 712A.2(b)(1)(B), and petitioner did not then seek court intervention. However, respondent's mother subsequently became ill and was no longer able to care for the children. Because respondent and one father were incarcerated, the legal custodian was unavailable, and the other father could not be located, the children were without proper custody or guardianship and court intervention was necessary. After the children were placed in foster care, petitioner made efforts to locate suitable relatives who could care for the children, see MCL 722.954a(2), but the

proposed relatives were either unqualified or unwilling to take custody. By the time the supplemental petition for termination was filed, respondent had been convicted of several offenses related to the drive-by shooting and was sentenced to prison. Her earliest release date is not until February 2013, and her maximum discharge date was in 2020. Before the hearing, she had not identified any alternate custodians who had not already been considered.

Further, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. Although the record reflects that respondent said she loved her children and could provide some care for her children if she made the effort, she was incarcerated and would remain so for the next three to ten years. At the hearing, respondent asked the court to consider placement with relatives. However, nothing in the law directs the court to refrain from ordering termination when the child could alternatively be placed with relatives, *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984), and if the court finds that it is in the best interests of the child to do so, it may terminate parental rights instead of placing the child with relatives. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999); *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991).

Here, the court considered the relatives identified by respondent and found that neither proposed custodian was appropriate. That finding is not clearly erroneous. Angela Williams had congestive heart failure, lived on a fixed income of \$808 a month, and lived in a one-bedroom house or apartment. Kim Randall was required to have a foster care license and had been unable to obtain one. In addition, she had previously filed a petition for guardianship that had been denied. Further, the evidence showed that two of the children had behavioral problems that prevented them from being placed together in the same home. Therefore, the trial court did not clearly err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Henry William Saad  
/s/ Joel P. Hoekstra  
/s/ Christopher M. Murray