

Court of Appeals, State of Michigan

ORDER

In re D.M.I. Smith, Minor

Docket No. 311223

LC No. 05-448277-NA

Henry William Saad
Presiding Judge

Kirsten Frank Kelly

Michael J. Kelly
Judges

The Court orders that the unpublished memorandum opinion issued on December 18, 2012, is AMENDED to correct a clerical error in the lower court number to the caption of the opinion. The lower court number is hereby amended to "05-448277-NA."

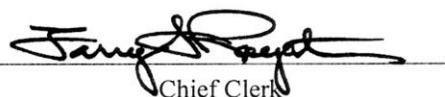
In all other respects, the December 18, 2012, opinion remains unchanged.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAR 05 2013

Date


Chief Clerk

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 18, 2012

In the Matter of D. M. I. SMITH, Minor.

No. 311223
Wayne Circuit Court
Family Division
LC No. 05-448227-NA

Before: SAAD, P.J., and K. F. KELLY and M. J. KELLY, JJ.

MEMORANDUM.

Respondent appeals a circuit court order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). For the reasons set forth below, we affirm.

As a preliminary matter, we find no merit to respondent's contention that the trial court "failed to find the requisite statutory grounds" for termination of her parental rights. The court specifically identified statutory grounds for termination and found that petitioner had met its burden of proof.

We hold that the trial court correctly ruled that clear and convincing evidence supported termination of respondent's parental rights pursuant to § 19b(3)(g).¹ *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008); MCR 3.977(E)(3) and (K). By virtue of her no-contest plea, respondent acknowledged that she was unable to provide proper care or custody for the child because she did not have suitable housing or a source of income with which to support the child. The court took judicial notice of the file, which showed that respondent had been provided with reunification services for several years, yet failed to sustain any significant benefit from them and her parental rights to five other children were terminated.

The evidence showed that after this child entered care, respondent did little to improve her ability to care for the baby. Despite a history of domestic violence, respondent reconciled with a violent partner. She had unsuitable housing and no evidence showed that her living situation was likely to change. Though respondent was working and testified that she was looking for another place to live, she also testified that she could not find anything she could

¹ The trial court did not fully explain its reliance on § 19b(3)(j) but, because petitioner established grounds for termination pursuant to § 19b(3)(g), we need not address this issue.

afford. Respondent also has a history of mental illness that remains untreated. Though respondent testified that she would participate in services, she did not benefit from mental health treatment and other services in the past. According to an evaluation by the Clinic for Child Study, respondent had sought mental health treatment in February 2012 but failed to follow through. Respondent tested positive for marijuana in 2010 and admitted that she consumed marijuana and alcohol just a few days before the dispositional hearing, yet she denied having a substance abuse problem. This evidence supported the trial court's ruling that there is no reasonable expectation that respondent will be able to provide proper care and custody within a reasonable time given the child's age. Because petitioner established grounds for termination under § 19b(3)(g), there was no need to establish § 19b(3)(j) as an additional basis for termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Affirmed.

/s/ Henry William Saad
/s/ Kirsten Frank Kelly
/s/ Michael J. Kelly