

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTINA JOY YOUNG and
MARQUIS GREGORY DANIEL YOUNG, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner - Appellee,

v

MARNICE YOUNG,

Respondent - Appellant,

and

THOMAS YOUNG,

Respondent.

UNPUBLISHED

September 29, 2000

No. 221995

Wayne Juvenile Court

LC No. 94-315020

Before: Collins, P.J., and Jansen and Zahra, JJ.

MEMORANDUM.

Respondent-appellant, Marnice Young, appeals to this Court by way of grant of her application for delayed leave to appeal from the juvenile court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(h) and (i); MSA 27.3178(598.19b)(3)(h) and (i). We affirm.

The juvenile court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Respondent-appellant was convicted of manslaughter and, on March 6, 1997, sentenced to six to fifteen years' imprisonment. The evidence below suggested respondent-appellant had mental health and substance abuse problems that precluded her from providing proper care for her children prior to her incarceration. Respondent-appellant refused treatment for the problems and, despite her youngest

child being born with a positive drug screen for cocaine,¹ has denied ever having a substance abuse problem. Given these circumstances, even if respondent-appellant becomes eligible for early release from prison and is released within two years of the permanent custody hearing, there is significant evidence the children will be deprived a “normal home” for a period exceeding two years. See *In re Dougherty*, 236 Mich App 240, 247; 599 NW2d 772 (1999).² The evidence suggests respondent-appellant has not provided for the children’s proper care and custody and will be unable to do so within a reasonable time considering the children’s ages. Consequently, the juvenile court did not clearly err in terminating respondent-appellant’s parental rights to both children under § 19b(3)(h).

Furthermore, respondent-appellant’s parental rights to six younger children were previously terminated based on her inability to provide proper care due to her incarceration, failure to visit with the children, failure to attend court ordered psychiatric and substance abuse therapy, and failure to remain drug free. Prior efforts to rehabilitate respondent-appellant have been unsuccessful. Consequently, the juvenile court did not clearly err in terminating respondent-appellant’s parental rights to Christina and Marquis under § 19b(3)(i).

There is not clear evidence, on the whole record, that termination is not in the children’s best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, ___ Mich ___; ___ NW2d ___ (Docket No. 112528, issued 7/5/00), slip op pp 14, 27. Accordingly, the juvenile court did not clearly err in terminating respondent-appellant’s parental rights to the children.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Kathleen Jansen
/s/ Brian K. Zahra

¹ That particular child is not subject to this appeal.

² Evidence that respondent-appellant’s sister has cared for Christina and Marquis and provided a nurturing environment for the children does not alter our conclusion that respondent-appellant’s incarceration and refusal to take responsibility and to receive treatment for her personal problems strongly suggests the children will be deprived a “normal home” for a period exceeding two years.