

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANTANETTA MAE
HENDERSON, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
September 15, 2005

Petitioner-Appellee,

v

RACHEL HENDERSON,

Respondent-Appellant.

No. 262664
Saginaw Circuit Court
Family Division
LC No. 05-029582-NA

Before: Bandstra, P.J., and Neff and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (i), (j) and (l). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). Respondent's parental rights to two other children were previously terminated in 1995, and her parental rights to a third child were terminated in 2004. There is no dispute that petitioner attempted to assist respondent in overcoming her substance abuse problem before her parental rights to those other children were terminated. Those efforts were unsuccessful as amply demonstrated by respondent's positive drug screens in January 2005, two days before the birth of the child at issue in this appeal, and in April 2005, less than a month before the termination hearing. In light of respondent's longstanding history of substance abuse and her positive drug screen less than a month before the termination hearing, the trial court did not clearly err in determining that respondent failed to provide proper care and custody of the child and would not be able to do so within a reasonable time considering the child's age, § 19b(3)(g), and that there was a reasonable likelihood the child would be harmed if placed in respondent's care, § 19b(3)(j). Moreover, the extent of respondent's current compliance with services is not pertinent to §§ 19b(3)(i) and (l), and respondent offers no persuasive argument that the trial court erred in relying on these subsections.

Respondent also argues that termination of her parental rights was clearly against the child's best interests because she had begun to cooperate in services and the trial court could

have waited a few months to observe her progress. There was no evidence, however, that termination of respondent's parental rights would be detrimental to the child, who was less than four months old. In light of respondent's past failures in her efforts to overcome her substance abuse problem and her positive drug screen shortly before the hearing, the trial court did not clearly err in determining that termination of respondent's parental rights was not contrary to the child's best interest. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Richard A. Bandstra

/s/ Janet T. Neff

/s/ Pat M. Donofrio