

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEVIN CURTHS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HEIDE M. CURTHS,

Respondent-Appellant,

and

TOMMIE FOSTER,

Respondent.

UNPUBLISHED

March 7, 2006

No. 264447

Kent Circuit Court

Family Division

LC No. 04-051133-NA

Before: Borrello, P.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

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

The trial court did not clearly err by finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions of adjudication were domestic violence, respondent mother's alcohol abuse, and the dental and educational neglect of the child. The record amply supports the conclusion that respondent mother's alcohol abuse continued to exist. Respondent mother completed only four of nineteen required random drug screens. Of those four, one was positive for alcohol, two were deemed positive for being late, and one was deemed positive because it showed evidence of tampering. She did not complete any substance abuse program. In June 2005 she was discharged from substance abuse therapy for missing sessions, having attended only four. The record also indicated that domestic violence between respondent mother and her former living together partner, Gary Rucker, continued to exist at the time of the termination trial. Respondent mother failed to address this problem through group therapy, because she continued to deny its existence until a few days before the termination trial. She did not engage in domestic violence counseling except perhaps during her four sessions of substance abuse counseling. Several days before the trial, respondent mother was assaulted by Mr. Rucker. Given respondent mother's failure to meaningfully engage in services addressing her alcohol

abuse and domestic violence throughout the duration of this case, the trial court was warranted in concluding that there was no reasonable likelihood that those conditions would be rectified within a reasonable time considering the age of the child.

Similarly, the trial court did not clearly err by finding that respondent mother failed to provide proper care and custody for the minor child, that there was no reasonable expectation that she would be able to do so within a reasonable time considering the age of the child, and that there was a reasonable likelihood the child would be harmed if returned to respondent mother's home. Respondent mother failed to provide proper care and custody for the child by failing to provide proper dental care, by abusing alcohol, by engaging in domestic violence in the presence of the child, and by failing to address the child's head lice problem and ensure adequate school attendance. Given evidence that respondent mother failed to successfully complete substance abuse treatment and continued to struggle with alcohol abuse even at the time of the termination trial, the trial court did not clearly err by finding that she would be unable to provide proper care and custody for the minor child within a reasonable time considering her age. Respondent mother herself admitted that she was not in a position to care for the minor child and indicated that she would possibly be able to do so in three months. The foster care worker, however, indicated that it would take at least six months of sobriety before a process directed toward reunification could even begin. Since respondent mother had not demonstrated sobriety at all at the time of the termination trial, any possibility of future reunification was more than six months in the future.

The child's therapist testified that the child spoke of her mother being hurt by Mr. Rucker and this was frightening for her. Dr. Kieleszewski, who performed a psychological evaluation of respondent mother, testified that a parent with a significant substance abuse problem might rationalize problems in the home, which could put the child at more risk for neglect. Such a pattern was evident in this case where respondent mother denied being aware that the child had dental problems despite severe decay that led to the removal of three teeth and her frequent complaints of tooth pain. Similarly respondent mother denied the occurrence of domestic violence until days before the termination trial. Given respondent mother's failure to address her substance abuse during the pendency of this matter, it is again reasonable to conclude that the child would be subject to similar neglect if returned to respondent mother. Under these circumstances, we are not left with a definite impression that the trial court made a mistake by finding clear and convincing evidence that the child would be harmed if returned to respondent mother. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 653 (2000).

The trial court also did not clearly err by finding that respondent mother's parental rights to another child were voluntarily terminated following the initiation of proceedings under MCL 712A.2(b). The lower court record contains an order of disposition indicating that jurisdiction was taken over Darius Curths and an order terminating respondent mother's parental rights to Darius. Respondent mother stated during her psychological evaluation that she voluntarily relinquished her parental rights to another child because she was going to prison.

When a statutory ground for termination is established, the trial court must order termination unless it finds that termination of parental rights to the child is clearly contrary to the best interests of the child. MCL 712A.19b(5). Although the evidence indicated a strong and positive bond between respondent mother and the minor child, we believe that termination is not contrary to the child's best interests for the fundamental reason that respondent mother has not

addressed the problems that placed the child in care. The evidence also indicated that the child is struggling with waiting for a decision in her life. After a year, respondent mother has failed to address the two underlying problems, substance abuse and domestic violence, in any substantial way. Given her lack of progress at the time of termination, it is uncertain when, and indeed whether, progress sufficient for reunification would be made. Considering respondent mother's uncertain future, and the child's need for permanence, we conclude that the trial court did not clearly err by finding that termination of respondent mother's parental rights was in the child's best interests.

Affirmed.

/s/ Stephen L. Borrello
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald