

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMIE SMITH-JONES, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANNA SMITH,

Respondent-Appellant.

UNPUBLISHED

March 23, 2006

No. 265383

Sanilac Circuit Court

Family Division

LC No. 03-034351-NA

Before: Owens, PJ, and Kelly and Fort Hood, JJ

PER CURIAM.

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

To terminate parental rights, a trial court must find that at least one of the grounds for termination in MCL 712A.19b(3), has been demonstrated by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Respondent's sole argument on appeal is that petitioner failed to prove a statutory ground for termination by clear and convincing evidence. We disagree and find that sufficient evidence supported termination of her parental rights under the statutory grounds relied upon by the trial court. "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). This Court reviews the trial court's determination for clear error. *In re Trejo*, *supra* at 356-357. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003), citing *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

First, we find that the evidence clearly supported termination under subsection (c)(i). The trial court assumed jurisdiction over the child because respondent, who was developmentally disabled and was under a partial guardianship, was homeless and unable to provide stable housing for the child. During the proceedings, respondent attempted to reside in an independent, "room and board" placement where reunification with the child was possible but, unfortunately, was unable to remain in that placement because of behavioral issues. By the time of the

termination hearing, respondent was residing in an adult foster care home, a placement that provided her with the structured environment she needed, but that could not accommodate the child. Accordingly, the evidence clearly established that respondent failed to rectify her housing situation, despite her efforts to do so.

Unfortunately, the testimony also clearly showed that respondent's living situation would not likely improve in the foreseeable future. We find compelling testimony by respondent's guardian that respondent needed to remain in an adult foster care home, the guardian would not consider placing respondent in a more independent living situation because of respondent's immaturity and her continued need for support to take care of herself in a structured environment, and respondent had progressed as far as she could with her disability at the time of the termination trial. We find the evidence clearly established that there was no reasonable likelihood respondent would obtain appropriate housing for the child within a reasonable time considering the child's tender age (the child was three years old at the time of the termination proceedings and had been in foster care for almost two years). MCL 712A.19b(3)(c)(i).

We also find the evidence clearly supported termination under subsection (g). In addition to respondent's inability to reside in a placement suitable for the child, testimony by the caseworker indicated that respondent was unable to care for the child on a daily basis for a long period of time. Respondent never progressed to the point where she could be left "completely unsupervised" with the child and could only be left with the child alone for short periods of time. Further, she did not have the ability or capacity to provide for the child's needs on a long-term basis because she typically lost focus or interest after a short period of time and her relationship with the child was "more of a child like" or "sibling" relationship. Testimony by respondent's guardian also indicated that respondent had difficulty taking care of herself and would have more difficulty taking care of a three-year-old child. We find that respondent's inability to make sufficient progress toward independent living and proper parenting during the lengthy proceedings, despite extensive services, clearly established that there was no reasonable expectation she would be able to provide proper care and custody for the child in the future. MCL 712A.19b(3)(g).

We also find the evidence clearly supported termination under subsection (j). Given respondent's limited capacity to parent the child as evidenced by her inability to maintain a living situation suitable for the child and her inability to properly care for the child for a long period of time, there was a reasonable likelihood that the child would be harmed if returned to respondent's home. MCL 712A.19b(3)(j).

Respondent argues that the trial court erred in terminating respondent's parental rights because she fully participated with services and made progress. Although a parent's compliance with a parent/agency agreement is probative of an ability to provide proper care and custody, *In re JK, supra* at 214, termination is proper even if a respondent complies with the parent/agency agreement when the compliance remains insufficient to rectify the conditions that led to the adjudication. *In re Jackson, supra* at 27. In this case, respondent completed parenting classes and anger management classes, participated in counseling, attended high school where she worked on obtaining her GED, obtained part-time employment, attended a nutrition class, participated in case management services through Community Mental Health, worked with a parenting aide, and had substantial parenting time with the child. Despite respondent's substantial compliance with the parent/agency agreement and her good intentions, the testimony

clearly showed respondent did not have the ability to care for the child because of her limitations.

Affirmed.

/s/ Donald S. Owens
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood