

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CIREA CHEYENE
OSTERHOUT, DA'QUAN DARNELL
OSTERHOUT, and SAMUEL LEWIS SNELL,
JR., Minors.

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

UNPUBLISHED
August 10, 2006

Petitioner-Appellee,

v

SHANE OSTERHOUT,

No. 266005
Wayne Circuit Court
Family Division
LC No. 03-423307-NA

Respondent-Appellant,

and

EMANUEL JEFFERS,

Respondent.

Before: Whitbeck, C.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent Shane Osterhout appeals as of right from the trial court order terminating her parental rights to Cirea and Da'Quan Osterhout.¹ We affirm. We decide this appeal without oral argument.²

¹ MCL 712A.19b(3)(c)(i) (authorizing termination where conditions continue to exist); MCL 712A.19b(3)(g) (authorizing termination for failure to provide proper care or custody); MCL 712A.19b(3)(j) (authorizing termination when there is a reasonable likelihood of harm should the child return to the parent's home).

² MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.³ The conditions leading to adjudication included Osterhout's lack of employment and housing, her incarceration and failure to make appropriate arrangements for the children while incarcerated, and her poor parenting skills. Nearly two years later, Osterhout still had no housing or employment, did not attend requested parenting classes, and had been incarcerated six times. Osterhout's argument that it was petitioner's failure to make reasonable efforts to reunify her with her children that prevented her from rectifying the conditions leading to adjudication, rather than her own fault, is not persuasive. The foster care worker testified that she made referrals for Osterhout but that Osterhout was re-incarcerated before she could complete the referral. The foster care worker also testified that, due to Osterhout's incarceration on six different occasions in two years, the worker had difficulty finding her. The evidence showed that, after nearly two years, Osterhout had not established stable housing or income, resulting in an inability to properly care for the children. Osterhout could not adequately care for herself, even without the complications of a family. "If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent."⁴

Furthermore, the trial court did not clearly err in its best interests determination.⁵ The children required stability, did not interact well with Osterhout at visits, and underwent emotional upheaval after visits. The children's caretaker testified that Da'Quan Osterhout would behave well when Osterhout was incarcerated for several weeks and then would completely change when she was released and visits resumed. The minor children argue on appeal that termination of Osterhout's rights was contrary to their best interests because the parental rights of the children's fathers were not terminated and, therefore, the termination of Osterhout's parental rights did not further the goal of adoption. In this case, the goal was not necessarily adoption, but stability. Termination of Osterhout's parental rights provided stability because the children would live without the emotional upheaval they underwent each time she was incarcerated and then released. Therefore, the trial court did not clearly err in finding that termination of her parental rights was not contrary to the children's best interests.

Affirmed.

/s/ William C. Whitbeck

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

³ MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

⁴ *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000) (citation omitted).

⁵ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000).