

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHYNNA QUENTORIA
NAQOLE CHEATHAM, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ADRIENNE CHEATHAM,

Respondent-Appellant.

UNPUBLISHED

February 6, 2007

No. 272656

Saginaw Circuit Court

Family Division

LC No. 05-029704-NA

In the Matter of TIRREY LAVALAIS
THOMPSON, JR., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ADRIENNE CHEATHAM,

Respondent-Appellant.

No. 272657

Saginaw Circuit Court

Family Division

LC No. 05-029705-NA

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

PER CURIAM.

Respondent appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

Respondent first raises a due process argument. She contends that her due process rights were violated because the court did not ensure that she received notice of the termination hearing. We find that the trial court adhered to the statutory requirements for substituted service. Although personal service is required under MCL 712A.12, MCL 712A.13 permits substituted

service “in cases in which personal service is impractical.” *In re SZ*, 262 Mich App 560, 564-565; 686 NW2d 520 (2004). The court rules also mandate personal service on a respondent in a child protective proceeding, MCR 3.920(B)(2)(b) and (4)(a), but similarly permit substituted service “if the court finds, on the basis of testimony or a motion and affidavit, that personal service of the summons is impracticable or cannot be achieved.” MCR 3.920(B)(4)(b).

In the case at hand, the lower court record contains the summons and order to appear for the termination trial, which was to be personally served on respondent. It appears that personal service was tried at respondent’s last known address. However, the proof of service form stated that it was not personally served because respondent had not lived there in over three months. The lower court record also contains the certified letter sent to respondent at the same address, which was returned as “unclaimed.” Although there was no testimony about respondent’s possible whereabouts, before the court authorized notice by publication, it inquired about her whereabouts by sending the summons by certified mail. Therefore, it appears that the statutory requirements for substituted service were satisfied.

Respondent next contends that termination of her parental rights was against the great weight of the evidence. The termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that the termination is clearly not in the best interests of the children. *Id.* at 353. This Court reviews the trial court’s findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent concedes that she had a substance abuse problem. However, respondent argues that the evidence showed that she had cooperated with services and had tested negative for drugs regularly. According to respondent, “[w]hen a parent is showing that kind of progress, it usually means that, given enough time, they will be able to reunify with their children.” We agree that respondent initially cooperated with services. However, she became noncompliant in her counseling sessions and failed to regularly attend the parent aide program with ARC Services. In addition, she submitted two positive urine screens and, eventually, stopped submitting urine screens altogether. Respondent’s failure to fully address her substance abuse problem supported the finding that this condition continued to exist and that it posed a risk of harm to her children. MCL 712A.19b(3)(c)(i) and (j). In addition, it interfered with her ability to provide proper care and custody for the children. MCL 712A.19b(3)(g). Given the amount of time that respondent had to address this problem, and her failure to do so, the trial court properly found that the condition would not be rectified within a reasonable time and that respondent would not be able to provide proper care for her children within a reasonable time considering the children’s ages. MCL 712A.19b(3)(c)(i) and (g). Thus, termination was warranted under at least MCL 712A.19b(3)(c)(i), (g), and (j).

Respondent next contends that it was not in the children’s best interests to terminate her parental rights. Respondent argues that, even though she was not a perfect parent, she had made progress. In addition, she argues that she was very bonded with her children. However, these children needed a mother who was able to care for them and provide them with a stable home. At the time of the termination hearing, testimony revealed that respondent was not able to care for the children because she had not fully addressed her substance abuse problem. Thus, the

evidence did not demonstrate that termination of respondent's parental rights was clearly not in the children's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio