

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHAEL RIVERA, DIEGO RIVERA, JESSE RIVERA, JADEN RIVERA, and ANDREA SAUCEDA, Minors.

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

UNPUBLISHED
March 13, 2007

Petitioner-Appellee,

v

VERONICA RIVERA,

Respondent-Appellant.

No. 272098
Monroe Circuit Court
Family Division
LC No. 05-018793-NA

Before: Markey, P.J., and Murphy and Kelly, JJ.

MEMORANDUM.

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

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions leading to adjudication were respondent's lack of housing and means to care for the children, and her untreated emotional and mental health issues, or, in short, her inability to provide the children with proper care and custody. Respondent's primary needs were medication and intensive mental health counseling and, in light of her occasional drug use, substance abuse evaluation and treatment.

Respondent's psychological evaluation indicates that she could not properly care for the children until she was assessed and treated for anxiety and depression and benefited from a minimum of one year of weekly therapy. It also shows that respondent had the capacity to pursue and benefit from services, but would not likely do so given her personality. Given respondent's noncompliance with any services during eight months of receiving referrals, other than completing the psychological evaluation and visiting the children, the trial court did not clearly err in finding that there was no reasonable expectation that respondent would rectify the conditions of adjudication and provide the children with proper care or custody within a reasonable time. If the children were returned to respondent, who remained untreated, they

would very likely experience the same neglect they had experienced in the past. On this record, we discern no clear error in the trial court's finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *Miller, supra* at 337.

Further, the evidence does not demonstrate that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Michael's preference for return to respondent was considered because he was turning 14 years old at the time of termination. The evidence shows that, while Michael always felt well cared for by respondent, he assumed a parental role over his siblings and served as support for the dependent respondent, suffered lack of attention to his special needs, and could not read when he entered care. The other children were also bonded to respondent and sad at separation from her, but the evidence shows that they did not learn basic skills or have basic structure while in her care, and that respondent would not make progress to accomplish their return within a reasonable time. The children made significant progress in foster care, where their special needs were addressed. The trial court's ruling in this regard was not clearly erroneous. MCL 712A.19b(5); *Trejo, supra* at 356-357.

Lastly, the evidence shows that the trial court did not err in finding that the agency made reasonable efforts to reunify the children with respondent. MCL 712A.18f(4). We review the trial court's finding of fact for clear error. MCR 3.977(J); *In re Miller, supra* at 337. Respondent was not well educated, had a limited fund of general knowledge, few resources, and significant depression and anxiety issues. While review of the lower court record indicates that Catholic Social Services' and petitioner's coordination and communication with respondent could have gone more smoothly, fault in that regard was attributable to respondent as well as the agencies. Respondent was given appropriate therapy, psychological evaluation, employment, drug screens, and housing referrals, and respondent's psychological evaluation show that she was able to understand what was required of her, was not intellectually impaired, and had the capacity to work toward reunification. Respondent's excuses of lack of transportation, personality issues with the caseworker and therapist, and not being qualified for the most basic of jobs lacked credibility because she obtained transportation for other things, did not complain about lack of rapport with the therapist, and had been previously able to perform various jobs. In sum, the evidence demonstrates that respondent was provided services with which she had the capacity to comply, but did not do so. The trial court's finding in this regard was not clearly erroneous. MCR 3.977(J); *Miller, supra* at 337.

Affirmed.

/s/ Jane E. Markey
/s/ William B. Murphy
/s/ Kirsten Frank Kelly