

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of EVAN ROBISON and KYLE
KEEL, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GAYLE KEEL,

Respondent-Appellant.

UNPUBLISHED

March 4, 2010

No. 293720

Eaton Circuit Court

Family Division

LC No. 08-017078-NA

Before: Servitto, P.J., and Bandstra and Fort Hood, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interest of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000). 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); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra*.

Termination of respondent's parental rights was proper under MCL 712A.19b(3)(g). Because of respondent's untreated alcohol addiction, she was unable to provide proper care and custody of her children. Respondent never benefited from any of the treatment and rehabilitation programs she entered. She often checked out early, against medical advice, or failed to complete the programs. Even after finishing treatment programs in December 2008 and January 2009, respondent continued to use alcohol. Respondent's regular use of Xanax to treat anxiety was also a concern for addiction. Since the children were adjudicated temporary court

wards, respondent never demonstrated that she could maintain sobriety for a period longer than two weeks. She tested positive for alcohol in January, March, and June 2009.

Moreover, despite respondent's assertion to the contrary, there is no evidence that the trial court refused to order her to participate in a long-term inpatient program. Respondent had numerous assessments by professionals who recommended her specific course of treatment, and she had many opportunities for rehabilitation. The issue in this case was not respondent's access to treatment, but that she often left programs early and never fully benefited from them.

Aside from failing to overcome her alcohol addiction, respondent also never completed counseling sessions. She missed many counseling sessions, never made progress in attended sessions, and stopped going to counseling altogether in May 2009. Ultimately, respondent's failure to comply with her parent-agency agreement by completing and benefiting from treatment and counseling is evidence of her failure to provide proper care and custody of the children. *In re JK, supra* at 214. Thus, the court's finding under MCL 712A.19b(3)(g) was proper.

Additionally, respondent's untreated alcoholism posed a serious risk of harm under MCL 712A.19b(3)(j). Respondent was taken to the emergency room twice for injuries she sustained while intoxicated. Respondent was arrested for driving on a suspended driver's license in January 2009, and she drove with her children in the car while her driver's license was suspended. She also admitted to attempting to drive with her children while she was under the influence of alcohol. Respondent has not improved her parenting skills as evidenced by her recent arrest for driving under the influence of alcohol on May 25, 2009. A parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW 2d 708 (2005). Thus, the court properly found that the children would be exposed to risk of harm in her care under MCL 712A.19b(3)(j).

Finally, the evidence showed that termination of respondent's parental rights was clearly in the best interests of the children because respondent is unable to care for them and provide them with the stability they need due to her alcohol addiction. There was no evidence that respondent has the capacity to provide for the children's basic needs. There was no evidence that respondent was employed, could support her children, or that she had housing. Also, despite respondent's assertion to the contrary, there was no evidence that she was making progress toward recovery or that guardianship was appropriate in this case. Given the young ages of these children who are in need of permanence, and respondent's inability to achieve stability in the near future, guardianship was not a feasible option.

Moreover, because respondent's visits have been suspended for so long due to her inability to achieve sobriety, any bond that existed between respondent and her children has weakened. Kyle's distressed reaction to respondent when she made an unannounced, unauthorized visit to him in April 2009 demonstrated the weakness of that bond. Thus, the court did not err in its best interest determination.

Affirmed.

/s/ Deborah A. Servitto
/s/ Richard A. Bandstra
/s/ Karen M. Fort Hood