

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WIANDA JEAN REAVES,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

FALESA SIMONE ANDERSON,

Respondent-Appellant,

and

ALVIN JACKSON REAVES,

Respondent.

UNPUBLISHED

April 27, 2010

No. 293329

Wayne Circuit Court

Family Division

LC No. 95-323452

Before: BANDSTRA, P.J., and BORRELLO and SHAPIRO, JJ.

MEMORANDUM.

Respondent-appellant appeals the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (b)(i), (c)(i), (g), (i), (j), and (k)(i). We affirm.

Respondent-appellant's sole claim on appeal is that the court erred in its best interest determination under MCL 712A.19b(5). We disagree and find no clear error in the trial court's decision to terminate respondent-appellant's parental rights. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent-appellant's older child was removed from her care in 1995 due to substance abuse and instability, and her parental rights to that child were eventually terminated. The child at issue tested positive for cocaine and marijuana at birth. Unfortunately, respondent-appellant failed to make significant efforts to address her longstanding substance abuse issue during the current proceedings, could not independently provide physical stability for the child, and clearly had not progressed to a point where reunification with the child was possible. The child, who was very young and had special needs, had been outside of respondent's care for her entire life and was in a relative placement that could provide her with future permanence through adoption. Because the record clearly established that termination of respondent-appellant's parental rights was in the child's best interests, MCL 712A.19b(5), as amended by 2008 PA 199, effective July 11, 2008, we fail to find clear error in the trial court's

decision to terminate respondent-appellant's parental rights instead of further delaying the child's permanency. *Trejo*, 462 Mich 356-357.¹

We disagree with respondent-appellant's argument that the trial court should have placed the child with the child's father and appointed the custodial aunt as the child's guardian instead of terminating the parents' parental rights. Although a court may maintain a temporary wardship with a relative placement or establish a guardianship if doing so is in the child's best interests, MCL 712A.19(6) and (7), it is not required to do so in lieu of termination where, as here, termination was in the child's best interests so that she could gain permanency. *In re IEM*, 233 Mich App 438, 453-454; 592 NW2d 751 (1999); *In re McIntyre*, 192 Mich App 47, 52-53; 480 NW2d 293 (1991); *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984). Additionally, considering that respondent-appellant's argument is premised on placement of the child with the child's father, we observe that the child's father consented to the termination of his parental rights, that he has not appealed that decision, and that he testified that he could not properly care for the child considering his age and the child's special needs, and that the child's interests would best be served by adoption by her custodial aunt, which he believed would be a "very good thing."

We affirm.

/s/ Richard A. Bandstra
/s/ Stephen L. Borrello
/s/ Douglas B. Shapiro

¹ The trial court did not make an affirmative finding that termination was in the child's best interests as required under the amended version of MCL 712A.19b(5), finding instead "no evidence to show that termination of parental rights is clearly not in the child's best interest." Although the court erred in applying the incorrect standard, the error was harmless because the record was replete with evidence to justify a finding that termination was in the child's best interests had the court applied the proper standard. See *In re Hansen*, 285 Mich App 158, 165-166; 774 NW2d 698 (2009) and MCR 2.613(A).