

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEVIONNA NICOLE LADD,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TINA LINDSEY,

Respondent-Appellant,

and

KEVIN LADD,

Respondent.

UNPUBLISHED

March 25, 2004

No. 250737

Saginaw Circuit Court

Family Division

LC No. 02-028156-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the order terminating her parental rights following the initial dispositional hearing pursuant to MCL 712A.19b(3)(i) and (l). We affirm.

The trial court did not clearly err in finding that a preponderance of the evidence established a statutory basis for jurisdiction under MCL 712A.2(b)(1). MCR 3.972(C)(1); *In re PAP*, 247 Mich App 148, 152-153; 640 NW2d 880 (2001); *In re Snyder*, 223 Mich App 85, 88; 566 NW2d 18 (1997). The minor child was born while respondent-appellant was incarcerated. Respondent-appellant argues that she provided for proper custody by placing the minor child with the child's maternal grandmother who was legally responsible for the care and maintenance of the minor child and who provided the minor child with proper care and maintenance under MCL 712A.2(b)(1)(B). Although respondent-appellant argues to the contrary, this case is distinguishable from *In re Taurus F*, 415 Mich 512; 330 NW2d 33 (1982), in which the Court found that an incarcerated parent can arrange to have a relative care for a minor child without court intervention as long as the child is adequately cared for. Unlike the respondent in *In re Taurus F*, respondent-appellant has had her parental rights to six other children terminated because of substance abuse and incarceration. This Court cannot allow respondent to effectively

preclude the state from protecting the interests of the minor child by placing the child in the home of a suitable relative where the state was seeking termination of parental rights based on prior acts of neglect and abuse. Thus, the trial court did not err in finding by a preponderance of the evidence that statutory grounds existed under MCL 712A.2(b)(1) for the court to exercise jurisdiction over the minor child.

Respondent-appellant also argues that the trial court erred in not finding that termination of her parental rights to the child was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353, 356-357; 612 NW2d 407 (2000). We disagree. The evidence clearly showed that respondent-appellant had her rights to six other children terminated because of her substance abuse and incarceration, that she tested positive for cocaine and marijuana when she was pregnant with this child, and that she was serving a prison term of two to fifteen years as an habitual offender, when the minor child was born. It was clear from respondent-appellant's actions that she was involved in the same type of activities that led to the termination of her parental rights to her six other children. Therefore, it was not in the best interests of the minor child that respondent-appellant's parental rights not be terminated.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette