

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JULIAN DODSON, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SARAH PERRY,

Respondent-Appellant.

UNPUBLISHED

September 27, 2005

No. 261234

Ogemaw Circuit Court

Family Division

LC No. 04-012575-NA

Before: Saad, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Respondent appeals from the trial court's order that terminated her parental rights to the minor child pursuant to MCL 712A.19b(3)(i) and (j). We affirm.

The trial court did not question respondent's assertion that she loved her child and was motivated to parent him. But, the trial court found that she lacked the mental and emotional capacity to do so and that termination was therefore warranted under §§ 19b(3)(i) and (j). We review the trial court's decision for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence established that respondent's parental rights to a previous child, who had been diagnosed as failure to thrive, were previously terminated in 1999, and a second child was placed in a permanent guardianship following a violent incident that necessitated the child being placed in protective custody. A psychologist who examined respondent testified that she had significant mental limitations and remained incapable of safely parenting a child, both physically and emotionally, and that a child would be at serious risk of harm if placed in respondent's care. Therefore, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.

Further, the evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests because the child's safety and health are permanent considerations. MCL 712A.19b(5); *In re Trejo, supra*. Therefore, the trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey