

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JERRY LEE RAWSON III and
GABRIELA RAE RAWSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TERRI EARLINE RAWSON,

Respondent-Appellant.

UNPUBLISHED

March 20, 2007

No. 273474

Van Buren Circuit Court

Family Division

LC No. 00-014898-NA

Before: O'Connell, P.J., and Murray and Davis, JJ.

PER CURIAM.

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

Respondent argues that the trial court clearly erred 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). We disagree. The evidence clearly demonstrated that respondent had permanent cognitive and emotional deficits that rendered her absolutely unable to parent her children without strong support from third parties. Even with constant support, the record demonstrates that respondent's slow recovery and frequent relapses have left her son, the older of the two children, embittered and angry at her, intentionally interfering with her ability to parent either child.

Respondent had cognitive struggles from birth that, combined with family circumstances, exacerbated the difficulties of young adulthood, led her into poor relationships, a teen pregnancy, and the abuse of drugs and alcohol. Shortly after the birth of her first child, who is not a subject of this case, she crashed her automobile while intoxicated. The accident caused her extensive physical injuries, including a traumatic brain injury that further impaired her mental and cognitive functions. Nevertheless, she married and had the two children at issue here. The record does not indicate any reports of neglect during the marriage, but after her husband's apparently self-induced death under unclear and unusual circumstances, respondent's life spiraled down into drugs, alcohol, parental neglect, and mental confusion. She moved in with a boyfriend who physically abused her one-year-old daughter. Respondent was apparently reacting to an episode of this abuse when she dramatically slit her wrists in the presence of her

boyfriend and her daughter. This was at least the second time she had attempted a suicidal act to gain control of a situation. Although the record does not indicate that respondent's six-year-old son was present, it clearly reflects that he later learned of the event. The children were removed from respondent's custody and placed with her in-laws.

Shortly after the children's removal, respondent took a trip to Florida and was arrested on her return for driving without insurance. She spent four days in jail. The next nine months were marked by further erratic behavior, including multiple failed drug screens, unsteady housing, and another run-in with the law arising from a domestic dispute. The dispute arose when respondent's new boyfriend told her to leave, and she reacted by breaking out a motel window. Respondent repeatedly obtained, and then quickly lost, meager employment, and was fired on one occasion for fighting with a coworker. Respondent did poorly on a psychological evaluation, but later claimed that the poor result was due to cocaine-induced sleep deprivation. Although it seriously impaired her ability to reunite with her children, she did not provide a clean drug screen until nine months after their removal.

In her parenting time with the children, respondent would gravitate toward her young, manageable daughter, inciting jealousy in her ADHD son. On one occasion, he threw toys at them and respondent spanked him. Later in the session, he bit respondent, and respondent bit him back. The record reflects that respondent could not engage her son in any serious manner without totally neglecting her young daughter. At this point in the proceedings, the children had been removed from respondent for eight months. Although the episodes of misbehavior were severe around respondent and respondent failed to demonstrate any capacity to control them, her son was remarkably calm and controllable in other environments. He expressed anger and hatred for his mother and disdain for her ex-boyfriend, but functioned relatively well in his foster placement. Under the circumstances, petitioner demonstrated by clear and convincing evidence a reasonable likelihood that the children would suffer harm if returned to respondent, and that she failed to provide them with proper care and custody and could not do so within a reasonable time. MCL 712A.19b(3)(g) and (j). Moreover, the record does not indicate that the termination was contrary to the children's best interests, so the trial court did not clearly err when it terminated respondents rights. MCL 712A.19b(5); MCR 3.977(J).

Nevertheless, respondent argues that she changed her life three months before petitioner took action to terminate her rights. According to respondent, she completed substance abuse services and abstained from drugs for more than six months. She received income in the form of Social Security disability benefits, obtained housing, began a medication regimen, and completed parenting classes. She argues that the trial court discounted her progress during the final nine months of the proceeding, did not consider the amount of support available to monitor respondent if the children were returned to her, and was not provided a clear indication of respondent's actual in-home abilities. She attributed her success to her newfound reliance on her brother's family and her faith.

Although we can appreciate her efforts and commend the strides she has taken to salvage her life, these efforts came too late to stand as reliable evidence of her long-term parenting ability and are not nearly as reliable as her historical reaction to the stress of coping with her children. Even after her brother's intervention, she continued to voice her resentment of her dead husband's family because she believed that they were trying to take her children from her. She also expressed irritation at her brother's imposition in her life. Any sound plan for

reunification would necessarily depend on her ability to function and relate extremely well with both these family groups, and respondent never improved her relationship with her custodial in-laws. Under the circumstances, we cannot say that the evidence of her belated turnaround substantially undermined petitioner's evidence that the statutory criteria were met. In other words, the trial court did not clearly err in finding that termination was appropriate.

Respondent's reliance on petitioner's lack of in-home observation of her parenting skills further illuminates the foundational errors in her arguments. Respondent did not receive in-home parenting time because she failed to establish a suitable housing environment until petitioner had already determined that controlled parenting-time was absolutely necessary to prevent serious problems. When respondent finally gained a measure of control over her life, she had already demonstrated such a serious lack of control that termination of her parental rights was already being pursued, mandating the termination of her parenting time and leaving her with little opportunity to demonstrate an improved ability to interact with the children. Respondent had to rely on circumstantial success regarding matters peripherally related to parenting, which was insufficient in light of petitioner's clear and convincing evidence that she manifestly failed to provide proper care and custody for the children and had never shown an independent capacity to protect them from harm.

Petitioner provided overwhelming evidence that respondent could not control her son's angry outbursts, could not defuse him, and had no independent understanding of how to interact with him in a way that could resolve his complex issues. Regarding respondent's daughter, as an infant she had been abused at the hands of respondent's boyfriend, and at the time of the disposition, she had spent much more of her life with foster caretakers than under the supervision of her mother. In the end, the trial court did not clearly err by finding that the statutory elements were met and that termination would not contravene the children's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ Christopher M. Murray
/s/ Alton T. Davis