

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of K'ESHA KENEA MONCRIEF,
MICHELLE NICOLE MONCRIEF, MARCUS
DEMOUND ROGERS, SHAWN MICAH
ROGERS, CARMEN BRIANNA ROGERS, and
CHRISTINE RENEE ROGERS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEPHANIE SHERESE MONCRIEF,

Respondent-Appellant,

and

KENNETH TERRELL ROGERS,

Respondent.

UNPUBLISHED

May 27, 2008

No. 281895

Wayne Circuit Court

Family Division

LC No. 04-437116-NA

Before: Fort Hood, P.J., and Talbot and Borrello, JJ.

PER CURIAM.

Respondent-appellant Stephanie Moncrief (hereafter respondent) appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

A petition to take permanent custody of the children was filed in December 2004, after the oldest child alleged that her father, respondent Kenneth Rogers (Rogers), had sexually abused her. Respondent allegedly was informed of the allegations, but chose not to believe this child, who began to reside with the paternal grandmother. Initially, the remaining children were left in respondent's care, but they were removed when Children's Protective Services (CPS) learned from the children that respondent allowed Rogers to be at the family home. The remaining children were then placed with the paternal grandmother.

Initially, the goal was reunification with respondent. However, during the course of the proceedings, respondent never obtained housing and did not provide proof of employment or

income, although she apparently did have part-time employment for a time. Shortly before the termination hearing, respondent notified petitioner that she had obtained housing. The caseworker found the home to be suitable, although it did not have furniture. However, the caseworker learned that the home was obtained from a friend of Rogers, and respondent did not provide a legal source of income to demonstrate that the residence was sustainable. Almost three years after the children were removed from respondent's custody, the trial court terminated her parental rights.

Respondent argues that the statutory grounds for termination of her parental rights was not established by clear and convincing evidence and the decision was clearly contrary to the children's best interests. We disagree. The existence of a statutory ground for termination must be proven by clear and convincing evidence. MCR 3.977(F)(1)(b) and (G)(3); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). Once the petitioner presents clear and convincing evidence of at least one statutory basis for termination, the trial court must issue an order terminating parental rights unless there exists clear evidence that termination is not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354-355; 612 NW2d 407 (2000). The trial court's decision regarding termination of parental rights and the children's best interests is reviewed for clear error. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

On this record, we cannot conclude that the trial court clearly erred in terminating respondent's parental rights. *JK, supra*. Although respondent had complied with portions of the parent-agency agreement, the caseworker questioned whether respondent had benefited from services. Moreover, during the course of the proceedings, respondent failed to address specific issues such as housing and income issues. The trial court provided respondent with ample time to provide for the children, but there was no indication that she could meet their basic needs before they were returned to her care. See *In re Terry*, 240 Mich App 14, 28; 610 NW2d 563 (2000).

Further, there was also clear and convincing evidence that termination of respondent's parental rights was not contrary to the best interests of the children. MCL 712A.19b(5); *JK, supra*. In October 2006, counsel for petitioner agreed to withdraw the supplemental petition seeking termination of parental rights to allow respondent to receive a psychiatric evaluation. Counsel for the minor children objected to withdrawal of the petition, asserting that it would be a step backward when an adjournment would be appropriate to allow for the evaluation. The trial court overruled the objection and allowed the withdrawal for preparation of the evaluation. Although respondent did attend the psychiatric evaluation, her progress was not reported to the caseworker because of the early stages of the evaluation, and respondent did not attend the next three court hearings. When addressing termination and the best interests of the children, the caseworker noted that respondent provided no evidence of a legal source of income to sustain the housing that respondent obtained through Roger's friend. Additionally, the caseworker opined that the use of Roger's contacts or friends called into question respondent's ability to protect the children. Respondent was present, but did not present any evidence to contradict the caseworker's conclusions and opinions. Thus, during the period of time that the termination decision was delayed for the psychiatric evaluation, respondent had made little progress in

demonstrating her ability to protect and provide for the children. In light of the duration of the proceeding, the children needed stability that respondent was unable to provide.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Michael J. Talbot

/s/ Stephen L. Borrello