

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JULON JUAN BOYCE-LEWIS,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

AMY SUE BOYCE,

Respondent-Appellant,

and

JUAN DEFARO LEWIS,

Respondent.

In the Matter of JULON JUAN BOYCE-LEWIS,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JUAN DEFARO LEWIS,

Respondent-Appellant,

and

AMY SUE BOYCE,

UNPUBLISHED
June 23, 2009

No. 289791
Wayne Circuit Court
Family Division
LC No. 07-473895-NA

No. 289792
Wayne Circuit Court
Family Division
LC No. 07-473895-NA

Respondent.

Before: Borrello, P.J., and Meter and Stephens, JJ.

PER CURIAM.

In these consolidated appeals, respondent mother appeals as of right from an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii), (b)(i), (c)(i), (g), (j), and (k)(i). Respondent father appeals from the same order that terminated his parental rights pursuant to MCL 712A.19b(3)(a)(ii), (b)(ii), (c)(i), (g), (j), and (k)(i). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were proven by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Julon was born on October 6, 2007, testing positive for marijuana, cocaine, and heroin. At a December 12, 2007, adjudicative hearing, respondent mother admitted that she used drugs throughout the pregnancy and that she had no income. Respondent mother also admitted that she had an older child, Dakota, who was also born testing positive for drugs in 2004. Dakota was placed in a guardianship with a family member, where he remained. At the same hearing, respondent father admitted that he knew respondent mother had been using drugs while she was pregnant with Julon and that she was not receiving proper prenatal care, but he did nothing. He had a criminal history and also was without income. A treatment plan was prepared for both respondents, which included substance abuse assessments and treatment, random drug screens, psychological evaluations, parenting classes, individual therapy, and weekly visitation with Julon. Respondents were to maintain contact with their worker, obtain a legal source of income, and obtain suitable housing.

At the time of the adjudicative hearing in December 2007, respondent mother was in a court-ordered inpatient drug treatment facility. The order arose out of a separate criminal matter. However, she left the facility without permission later in the month and then was not heard from again until October 2008. The one and only visit she had with Julon was in December 2007. Other than that, she had absolutely no contact with him or her worker. She spent several months in jail at various times because of her violations of court orders regarding other inpatient drug treatments. Because respondent mother failed to keep in contact with her worker and because her whereabouts were unknown, no referrals were ever made.

Respondent father, for his part, visited Julon sporadically from December 2007 until February 2008, and then stopped visiting him altogether. All of respondent father's referrals were in place in February 2008, but he was discharged from each of the programs due to lack of participation. His one drug screen in February 2008 was positive for marijuana. Workers lost all contact with respondent father until August 2008, when he called to see about beginning the treatment program.

Both respondents presented evidence of some efforts toward rehabilitation. Respondent mother presented the trial court with evidence that she had completed a 30-day drug treatment program on November 10, 2008. Respondent father also maintained that he was in an intensive outpatient drug treatment program and individual therapy, but he provided no documentation in support of this contention.

The trial court did not err in finding that each statutory basis was proven by clear and convincing evidence. Respondent mother admitted that she used drugs during her pregnancy and that Julon suffered withdrawal symptoms after his birth. Respondent father admitted that he knew respondent mother was using drugs but did nothing. Neither parent had satisfactorily addressed their issues with substance abuse at the time of termination. Subsections 19b(3)(b)(i) (parent's actions caused child physical injury and there is a reasonable likelihood of future injury or abuse) and (b)(ii) (failure to protect and a reasonable likelihood of future injury or abuse) were proven by respondents' own admissions and their failure to rectify their substance abuse. In addition, neither parent made any real attempt to visit Julon during the pendency of the case. Respondent father's last visit was in February 2008, and respondent mother's last visit was in December 2007. Their failure to visit and failure to take the steps necessary toward reunification established abandonment for purposes of subsections 19b(3)(a)(ii) and (k)(i). Respondents' total lack of effort in their respective treatment plans evidenced that the conditions leading to adjudication continued to exist without a reasonable likelihood that the conditions would be rectified within a reasonable amount of time under subsection 19b(3)(c)(i). While respondent mother was making efforts at sobriety, her substance abuse dated back to at least 2004 when her other son was born testing positive for drugs. A 90-day period of sobriety, much of which was spent in jail, was insufficient to establish stable sobriety. Respondent father, who had a criminal record for delivery of drugs and had other children that he did not support and who had also been subject to protective services jurisdiction, had an even shorter period of treatment. With regard to whether respondents could provide Julon with proper care or custody under subsection 19b(3)(g), neither respondent had independent housing or income. More importantly, neither respondent visited the child, so there was no way to assess their parenting skills. All of the foregoing evidence also supports termination under subsection 19b(3)(j). Given respondents' histories of drug use and criminality, Julon would likely be harmed if placed in their care.

Having found the statutory grounds for termination proven by clear and convincing evidence, the trial court had to determine whether it was in Julon's best interests to terminate respondents' parental rights. MCL 712A.19b(5). The trial court was well within its right when it answered that question affirmatively. Respondent mother failed to visit the child since December 2007. Respondent father failed to visit him since February 2008. Given Julon's young age, it could not be argued that any sort of attachment existed. Respondent father had seven other children, none of whom were in his care, and he paid no child support. Both respondents' complete lack of effort evidenced that they were not ready to parent Julon. Any last minute attempts at rehabilitation were simply too late. Julon had already been in care for a year and was entitled to permanence and stability.

Affirmed.

/s/ Stephen L. Borrello
/s/ Patrick M. Meter
/s/ Cynthia Diane Stephens