

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
October 19, 2010

In the Matter of L. A. SHAFFER-ARREOLA and  
M. E. G. SHAFFER-LANDEROS, Minors.

No. 297568  
Branch Circuit Court  
Family Division  
LC No. 08-004006-NA

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Before: HOEKSTRA, P.J., and FITZGERALD and STEPHENS, JJ.

PER CURIAM.

Respondent mother appeals as of right from the trial court order terminating her parental rights to her children under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist) and (g) (failure to provide proper care and custody). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The trial court must also find clear and convincing evidence that termination is in the child's best interest. MCL 712A.19b(5). This Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the best interest determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009).

The conditions leading to adjudication in the present case were respondent's unemployment and lack of housing, her failure to provide care for the children, and her placement of them in improper and unsafe homes. Although respondent had completed parenting classes and was able to maintain sobriety during the pendency of the underlying proceedings, she had not obtained employment or stable housing at the time of the termination hearing. Respondent also continued to have difficulty providing proper supervision of the two young children during her supervised visits at petitioner's office. In addition, the record indicates that respondent had relocated three times in the six months preceding the termination hearing. Respondent's argument that her new husband was able to provide for the children financially and provide them a suitable home is not persuasive. At the time of the termination hearing, respondent's husband had been hired for, but had not yet started, a job earning \$8 per hour, and they were living in a two-bedroom apartment with his sister. The apartment was not large enough to accommodate the children as well as three adults, particularly with another child on the way. In addition, it would be difficult for respondent's husband to support respondent,

their new baby, and himself with his earnings, let alone the minor children at issue here. We also note respondent failed to attend Work First to assist her in finding employment and also failed to schedule or attend individual counseling. Accordingly, the trial court did not clearly err in finding that there was clear and convincing evidence the conditions of adjudication continued to exist at the time of the termination hearing.

We next address the trial court's finding that respondent failed to provide proper care and custody for her children. At the termination hearing, respondent did not have a suitable home for her children, could not support her children financially, and was not supervising the children properly. Respondent argues that the trial court erred in weighing the testimony of the foster care worker and case monitor over the testimony of the parenting coach and the visitation supervisor regarding her ability to parent her children during visits, but this Court must defer to the trial court's special opportunity to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). In addition, failure to comply with the parent/agency agreement is evidence of a parent's failure to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). While respondent complied with some aspects of the service plan by submitting to a psychological assessment and random substance abuse screenings, as well as attending parenting classes, she failed to comply with other aspects of the service plan, such as attending Work First and individual counseling.

The remaining question is whether there was a reasonable likelihood that respondent would rectify the conditions leading to adjudication within a reasonable time and could provide proper care and custody for her children within a reasonable time considering the children's ages. The evaluating psychologist's testimony is helpful in this consideration. He gave respondent a poor prognosis, saying that people with respondent's personality profile are likely to be inattentive parents, defer parenting responsibility over a period of time, justify their behavior intellectually, and avoid seeing the negative impacts on their children. He also testified that, although respondent had given up alcohol, he would still be concerned about her ability to parent if she had not changed her lifestyle. Respondent did not change her lifestyle, except to get married. She did not attend individual counseling or go to Work First, did not find employment, and she did not improve her parenting skills to be able to properly supervise and interact with both children at once, despite having attended parenting classes in excess of those required by her service plan. Therefore, the trial court did not clearly err in finding that respondent had failed to provide proper care and custody for her children and that there was no reasonable expectation that respondent mother would be able to rectify the conditions leading to adjudication or provide proper care and custody for her children within a reasonable time considering the children's ages.

We also find the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). Respondent did not complete or even begin individual counseling or Work First, was not able to supervise and interact with both her children during visits, failed to secure suitable housing or employment, and her prognosis for long-term follow-through was poor.

Affirmed.

/s/ Joel P. Hoekstra

/s/ E. Thomas Fitzgerald

/s/ Cynthia Diane Stephens