

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of QUENTIN LAMAR REAMER
and CIARA LYNN REAMER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CARIL COBB,

Respondent-Appellant.

UNPUBLISHED

June 12, 2007

No. 274875

Oakland Circuit Court

Family Division

LC No. 05-702353-NA

Before: Servitto, P.J., and Jansen and Schuette, JJ.

PER CURIAM.

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

The children were removed in January 2005 following an altercation between respondent and their father during which respondent wielded a knife. Respondent had mental health issues and was diagnosed with bipolar disorder and borderline personality disorder. She saw a psychiatrist and psychologist and took Lithium, Seroquel, and Vicodin. After the court took jurisdiction and issued an order of disposition, respondent was ordered to comply with a parent agency agreement (PAA), including parenting classes and visitations, a psychological evaluation and counseling, suitable housing, and drug screens. She tested positive for marijuana in early May 2005. Other screens were negative except for prescription drugs. Respondent finished parenting classes, improved in counseling, and obtained appropriate housing. Eventually, she progressed to unsupervised visits and then to overnight visitations.

However, respondent then missed certain drug screens, and some were positive for prescription opiates. At one point, respondent evidently passed out at work from taking two doses of prescription drugs too close together. She also missed certain appointments for her psychological evaluation, and there were reports that respondent had problems with supervision of the children during visitations. There were similar reports that the children were having behavioral difficulties after returning from visits with their mother.

Respondent argues that there was not clear and convincing evidence to support termination of her parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We disagree.

Respondent had ample time to improve and rectify the conditions that brought the children into care. Failure to substantially comply with a PAA is evidence of continuing parental unfitness. *In re Trejo*, 462 Mich 341, 346 n 3, 360-361 n 16; 612 NW2d 407 (2000). Respondent was not permitted to visit the children after March 2006 because she never complied with the court's reasonable requirement of three consecutive negative drug screens, and because she failed to comply with the court's order of support. She also obtained new criminal convictions during the pendency of this case, both of which were felonies and had the potential for significant incarceration. Respondent had significant mental health issues as well. While her psychiatrist testified that respondent was stable and her mental conditions would not prevent her from caring for her children, the psychiatrist was not aware that she had stopped taking her medication for bipolar disorder, and his opinion was based in part upon respondent's continued use of her medications. Although there was some evidence that respondent initially attempted to improve her parenting skills and to rectify the conditions leading to adjudication, respondent never followed through on these attempts at improvement. We cannot conclude that the trial court clearly erred in finding clear and convincing evidence to support termination under subsections (c)(i), (g), and (j). MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Further, the trial court did not clearly err in finding that termination was not clearly contrary to the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 364-365. Although respondent loved her children and wanted to provide a good home for them, she failed to take the simple steps that would have resulted in continued unsupervised visitations. If returned home, the children would have been at risk because of respondent's unresolved problems with mental illness, prescription drug abuse, and persistent criminal behavior. The children were in need of a stable, permanent, safe home, which respondent could not provide.

Finally, we reject respondent's claim that she was denied due process of law by the court's requirement of drug screening. This issue was not raised below and is therefore reviewed for plain error affecting respondent's substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). Mandatory drug screens were included in the order of disposition and respondent's PAA after the children's guardian observed that both parents' behavior suggested possible drug addictions. Respondent in fact tested positive for marijuana on May 2, 2005, and had other screens that tested positive for opiates. While the latter may have been caused by valid prescriptions for Vicodin, this did not negate the possibility of respondent's dependence on prescription drugs. In any event, the court's ordering of drug screens did not violate any due process right. Respondent did have a right to continued companionship and custody of her children—a protected liberty interest under the Due Process clause. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). However, there was a substantial societal interest in the protection and welfare of children. Drug screening is a common requirement in cases of this type, and the requirement is especially reasonable where unsupervised or overnight visits are contemplated and the parent has a history of drug use or irrational behavior. Thus, although drug use was not charged in the original petition, the trial court did not plainly err by ordering drug screens in this case.

Affirmed.

/s/ Deborah A. Servitto

/s/ Kathleen Jansen

/s/ Bill Schuette