

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Turean Andre Harris, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LENA LAVETTE HARRIS,

Respondent-Appellant.

UNPUBLISHED

July 17, 2007

No. 272408

Wayne Circuit Court

Family Division

LC No. 02-405644-NA

Before: White, P.J., Zahra and Fort Hood, JJ.

PER CURIAM.

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

To issue an order terminating parental rights, the family court must make findings of fact, state conclusions of law, and specify the statutory basis for the order. MCL 712A.19b(1); MCR 3.977(H)(1); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once a statutory ground for termination of parental rights is established, the court must terminate parental rights unless it finds that termination of the child's parental rights is clearly not in the child's best interest. MCL 712A.19b(5); *Trejo, supra* at 353-354. This Court reviews the trial court's findings that a ground for termination has been established and regarding the child's best interest for clear error. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *Id.* Erroneous termination of parental rights under one statutory basis for termination can be harmless error if the court properly found another ground for termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

The trial court did not fail to find requisite statutory grounds to terminate respondent's parental rights, as respondent argues on appeal. Rather, the trial court found that clear and convincing evidence supported two statutory grounds for termination of respondent's parental rights to Turean, MCL 712A.19b(3)(c)(i), and (g). The trial court made findings of fact, stated conclusions of law, and specified the statutory bases for the order. MCL 712A.19b(1); MCR 3.977(H)(1); *Trejo, supra*, 462 Mich at 355.

Respondent asserts that clear and convincing evidence was not presented that the conditions that led to the adjudication continued, MCL 712A.19b(3)(c)(1). Because we conclude that the trial court did not clearly err in finding that petitioner established the existence of the other statutory basis under which it terminated respondent's rights, MCL 712A.19b(3)(g), by clear and convincing evidence, we need not address MCL 712A.19b(3)(c)(1). *Powers, supra* at 118.

At the time of trial in June 2006, Turean had been a temporary ward for nearly four years. Respondent complied in part with the parent agency plan; she completed parenting classes and testified she benefited from them. She also attended more than 1/2 of the scheduled visitations, however, her visitation record worsened over time. Regarding the parent agency plan's requirement that respondent obtain suitable housing, the record supports that respondent had what appeared to be a stable home with her live-together partner of eight or so years, Robert Martin. Both respondent and Martin testified that they were moving to a new place after trial (that same month), which had two bedrooms, and had the necessary funds. However, the caseworker had not seen the new place. Martin worked six days a week and the mental health professionals who evaluated respondent and Martin opined, and the foster care worker testified, that Martin would not be in a position to be Turean's primary caretaker. Their shared opinion was that respondent could not properly parent Turean alone. Importantly, as the trial court noted, respondent did not comply with the treatment plan's requirements that she submit to monthly drug screens, and at the time of trial in June 2006 had not submitted a drug screen in over one year. She tested positive for marijuana use at one of her last screens, around April 2005. Regarding individual therapy, her therapist discontinued therapy after approximately two months because of respondent's missing or canceling appointments (even though the therapist went to respondent's home). Respondent's compliance with the parent agency plan was only partial.

As the trial court noted, respondent loved Turean and he and she shared a strong bond, however, respondent left Turean with her physically abusive sister for years, during which time her whereabouts were at least at times unknown, and she went one year without seeing Turean between 2002 and 2003. There was evidence that respondent maintained contact with that sister during the pendency of these proceedings. The trial court also noted respondent's mental limitations; her IQ is in the extremely low range, below 99 percent of her peers, and her testimony indicates she is unaware of her mental limitations.

Under these circumstances, we conclude that clear and convincing evidence was presented that, without regard to intent, respondent failed to provide proper care or custody for Turean and that there was no reasonable expectation that respondent will be able to provide proper care and custody within a reasonable time considering Turean's age. MCL 712A.19b(3)(g).

Once a statutory ground for termination of parental rights is established, the court must terminate parental rights unless it finds that termination of the child's parental rights is clearly not in the child's best interest. MCL 712A.19b(5); *Trejo, supra* at 353-354. In this case, the trial court found that it was not in Turean's best interest not to terminate respondent's parental rights. We agree, as the evidence did not show that termination was clearly not in Turean's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357.

Affirmed.

/s/ Helene N. White

/s/ Brian K. Zahra

/s/ Karen M. Fort Hood