

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A.G.L., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TRICIA LEE and WALTER LEE,

Respondents-Appellants.

UNPUBLISHED

December 22, 2009

No. 292905

Mecosta Circuit Court

Family Division

LC No. 07-005110-NA

Before: K. F. Kelly, P.J., and Hoekstra and Whitbeck, JJ.

PER CURIAM.

Respondents appeal as of right the order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Respondent mother's parental rights were also terminated pursuant to subsection 19b(3)(b)(i). We affirm.

Clear and convincing evidence existed to support the trial court's decision to terminate respondents' parental rights. MCL 712A.19b(3); MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Contrary to respondents' claim that the termination was the result of respondent mother's prior abuse and neglect case and respondent father's prior juvenile conviction for criminal sexual conduct, respondents were simply not in a position to care for the minor child. It is true that respondent mother's prior CPS involvement was important. The minor child's older sister, J.E., suffered a broken arm and unexplained bruising. Although charged with criminal abuse and neglect, respondent mother pleaded guilty to domestic violence. J.E. and her older brother, A.E., were placed in a guardianship with their paternal grandparents. The prior case demonstrated that respondent mother did not make any progress, even after intensive services were offered. Respondent mother's counselor noted that respondent mother did not fully understand the abuse she imparted upon J.E.

But respondents' parental rights to the minor child were terminated not simply because of the prior case, but because respondents continued to show an inability to benefit from services. Following the minor child's birth, respondents expressed a desire to care for him and agreed to participate in services at Infant Support Services and Maternal Support Services, as well as through WIC. Respondents failed to do so. This was startling, especially in light of the prior case as well as the fact that the minor child was not gaining weight. Respondents failed to participate in programs that would have assisted in providing instruction and options for the

minor child's sensitive stomach and reflux condition. The foster care mother testified that the services were extremely helpful because the doctor's office provided only superficial guidance, whereas the WIC program provided hands-on instruction.

Once the petition in this case was filed, respondents were asked to participate in counseling and parenting classes, visit the minor child, and maintain suitable income and housing. Respondents participated in counseling with Chad Campbell and in parenting instruction with Mary Campbell. However, because the minor child was not in their home, the at-home parenting instruction was discontinued. Respondents contend that this was not their fault. That may be true, but respondents had not progressed to the point where they could have extensive visitation. In spite of the fact that they both had older children, the evidence demonstrated that respondents needed constant instruction during the visits regarding how to handle the minor child. Their psychological evaluations suggested that neither was in a position to provide independent parenting for the minor child. It is not clear what additional services could have been offered to compensate for respondents' parenting inadequacies.

In addition, respondents failed to comply with the requirements that they seek and maintain suitable housing and income. Respondent father received approximately \$600 a month in disability benefits. Respondent mother had no income whatsoever, having lost her cash assistance and food stamps for failure to comply with the Michigan Works program. They also had more than two apartments in the year that the case was pending. The first was entirely unacceptable because it was filthy and too small. The next was appropriate, but respondents were evicted for nonpayment of rent. They stayed at a motel for at least one night. At the time of trial, respondents were living with his sister, who was also in the process of being evicted for nonpayment of rent. Respondents' "plan" was to move to South Dakota, where jobs and housing awaited them. However, they provided no concrete information about exactly where they would be living or what jobs they would have except one in a factory and one on a farm. There was nothing in the record to lead the court to believe that respondents would find the stability in South Dakota that they could not find in Michigan.

It was clear that respondents had no real income and no suitable housing. It was not likely that these conditions would change in the near future. They had no means of providing the minor child with proper care or custody when they could not take care of themselves. Additionally, it did not appear that respondents benefited from counseling. Placing the minor child in their care, especially in light of their respective backgrounds, would have placed him at risk.

It was in the minor child's best interests to terminate respondents' parental rights. MCL 712A.19b(5). The minor child was placed in foster care one month after his birth. He remained there for nearly 15 months, and he was flourishing. Respondents needed guidance and instruction on basic baby care during their visits with the minor child. Their visits never progressed to unsupervised and were never more than one to two hours a week. It could not be said that a significant bond existed between the minor child and respondents. Both respondents had older children that were out of their care, whom they had not seen in over a year. Given the lack of a bond and respondents' inability to care for themselves, it was in the minor child's best interest to terminate their parental rights. He was entitled to permanence and stability.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck