

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LESLIE ROIALTY WARE,
JASHAUN MAURICE HICKS, JA'VEON
JABARI RHIMES, TYREE EDRICK HUBBARD,
EDRICK TYREE HUBBARD III, and LARRY
COLLINS HUBBARD, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SWLES HUBBARD,

Respondent-Appellant,

and

EDRICK HUBBARD and GREGORY BLANDER,

Respondents.

UNPUBLISHED

December 22, 2009

No. 291941

Oakland Circuit Court

Family Division

LC No. 06-726972-NA

Before: Donofrio, P.J., and Sawyer and Owens, JJ.

PER CURIAM.

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

Respondent-appellant's six children were made temporary wards after she and her husband, who was also the father of three of the children, pleaded no contest to various petitions, whose allegations cited numerous referrals since 2002 concerning domestic violence, substance abuse, a lack of suitable housing, and neglectful parenting. Following the initiation of these proceedings, by all accounts, respondent-appellant complied with the terms of her court-ordered Parent/Agency Agreement intended to rectify her issues and reunify the family by participating in and completing the requisite services, including individual and marital counseling, parenting classes, drug/alcohol screens, and obtaining employment and suitable housing. Because of substantial progress with services on the part of respondent-appellant and her husband, the children were eventually returned to their care during the proceedings with in-home services in place. Unfortunately, within six months, respondent-appellant had lost her employment, was in

the process of being evicted from her home for nonpayment of rent, and missed numerous drug/alcohol screens, and the domestic violence between the parents started again. Most recently, a dispute escalated to the point where her husband, who was ordered out of the home by the court during the previous month because of his physical and verbal abuse, shot a gun at respondent-appellant in their home while the children were present. Following this incident, the court immediately removed the children from respondent-appellant's care, and they were placed in foster care again. Thereafter, respondent-appellant was inconsistent with services, and petitioner eventually sought termination of the parents' parental rights. Following the termination proceedings, the court found sufficient evidence to support statutory grounds for termination of respondent-appellant's parental rights under MCL 712A.19(c)(i), (g), and (j) and that termination was in the children's best interests. This appeal ensued.

We find no clear error in the trial court's finding that petitioner established the statutory grounds for termination by clear and convincing evidence. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The condition that led to the adjudication of the children at issue was respondent-appellant's inability to provide the children with a stable and safe home environment stemming from domestic violence, a lack of adequate housing or means to support the children, neglectful parenting, and substance abuse. Respondent-appellant complied with and completed services intended to address these issues and gained physical stability for a period of time, but she was unable to maintain her positive progress after the children were returned to her care. There were no additional services available to assist her, and the children had been outside of her care for a significant part of their lives. Given this evidence, the trial court did not clearly err in finding that respondent-appellant would not likely be able to rectify the conditions that led to the adjudication and that there was no reasonable expectation she would be able to provide proper care and custody within a reasonable time. MCL 712A.19b(3)(c)(i) and (g); *Trejo, supra* at 356-357. Although her substantial efforts with services during the proceedings were commendable, they were not enough to facilitate change, as evidenced by her reversion back to the instability and domestic violence that led to the initiation of these proceedings.

Likewise, considering respondent-appellant's history of exposing the children to domestic violence in their home as well as her longstanding lack of stability, the trial court did not clearly err in concluding that there was a reasonable likelihood that the children would be harmed if returned to her home. MCL 712A.19b(3)(j); *Trejo, supra* at 356-357. We disagree with respondent-appellant's contention that termination was improper because she protected the children and they were never harmed while in her care. The domestic violence was longstanding and serious and clearly subjected the children to a serious risk of physical and emotional harm, especially considering the most recent incident culminating in her husband shooting a gun at respondent-appellant in the children's presence. Unfortunately, respondent-appellant demonstrated a lack of benefit with services intended to address the domestic violence and her instability, and thus, the risk of harm to the children posed by her behaviors had not been eliminated.

The trial court also did not clearly err in finding that termination of respondent-appellant's parental rights was in the children's best interests. MCL 712A.19b(5). While we recognize that the children and respondent-appellant were clearly bonded and she loved her children and expressed a strong desire to parent them, the evidence revealed that she made only

limited progress in achieving stability and addressing her domestic violence issue. The evidence also revealed that she would not likely be able to achieve stability within a reasonable time considering the longstanding nature of the pertinent issues and the psychological evaluation indicating a poor prognosis for parenting. The children, who had been in the custody of other caregivers for significant parts of their lives, required stability and permanency, which respondent-appellant could not provide. The trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Pat M. Donofrio
/s/ David H. Sawyer
/s/ Donald S. Owens