

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JALON JOHN WARREN,
DAVON LON WARREN, TAKIVA ESTEE
DUBOSE, and FELICIA MARIE DUBOSE,
Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROXANNE DUBOSE,

Respondent-Appellant,

and

LON HOWARD WARREN,

Respondent.

In the Matter of JALON JOHN WARREN and
DAVON LON WARREN, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LON HOWARD WARREN,

Respondent-Appellant,

and

ROXANNE DUBOSE,

UNPUBLISHED
November 21, 2006

No. 268652
Oakland Circuit Court
Family Division
LC No. 03-676823-NA

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Respondent.

Before: Cooper, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the two orders that terminated respondent-mother's parental rights to Takiva, Felicia, Jalon, and Davon, and respondent-father's parental rights to Jalon and Davon, pursuant to MCL 712A.19b(3)(j). We affirm.

The trial court did not clearly err in determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). With respect to respondent-mother, the evidence provided clear and convincing proof that she had a pattern of denying or minimizing the serious issues in her life. For example, respondent-mother was required to attend counseling sessions as part of the parent-agency agreement ("PAA"). Although she cancelled or failed to show for many appointments, she did attend some sessions with therapist Valerie Guyton. Guyton testified that respondent-mother denied any issues with domestic violence. As another example, respondent-mother testified that the day she was taken to the hospital for a drug overdose¹ was the first time she had ingested cocaine. This pattern of denial and minimization created the reasonable likelihood that the dangerous problems of drug use and domestic violence that existed in her life would continue. Therefore, respondent-mother's conduct created the reasonable likelihood that the children would be at risk of harm if returned to respondent-mother's home.

With respect to respondent-father, giving deference to the trial court's opportunity to assess a witness's credibility, this Court concludes that the trial court did not clearly err. Respondent-father's failure to abide by the court order to stay away from respondent-mother demonstrated his willingness to ignore or deny the domestic violence problems that existed in his relationship with respondent-mother. These problems were serious, as proven by his criminal record. Respondent-father also failed to comply with the PAA with respect to drug screening. After testing positive for cocaine on August 25, 2005, September 23, 2005, September 27, 2005, and October 9, 2005 (those four screens were re-tested and the results were still positive), respondent-father failed to submit any more drug screens after October 9, 2005. Because of respondent-father's conduct and apparent capacity to ignore or deny significant and dangerous issues, Jalon and Davon would be at risk of harm if placed in respondent-father's home.

¹ Notably, the ambulance was called at the request of respondent-mother's twelve-year-old daughter, who found her mother passed out and breathing abnormally, and was understandably concerned. Respondent-father was sleeping next to respondent-mother at the time, in violation of the court's order to stay away from respondent-mother. According to the FIA, the two younger children, Jalon (d/o/b 3/6/02) and Davon (d/o/b 5/30/04), were found naked and without diapers at the time of this incident.

Respondent-mother argues that she substantially complied with the PAA. While it is true that respondent-mother did some work on the PAA, the evidence clearly and convincingly showed that she had not completed any of its requirements. Respondent-mother also complains about the lack of specificity in the PAA and in the counseling treatment plan. However, the worker from the Department of Human Services (“DHS”) explained that petitioner’s practice was not to specify a number of times a person had to attend counseling; rather, that decision was left to the therapist. Respondent-mother’s alleged need for specificity just underscores the fact that she minimized the problems in her life since the DHS or the counselor could not be expected to know the exact number of sessions that are needed to address serious problems like domestic violence or drug use. Lastly, respondent-mother argues that the DHS did not make reasonable efforts to reunite the family, and that respondent-mother’s efforts were made more challenging by first the absence of, and then a multiplicity of, caseworkers. However, even though there were various caseworkers throughout this case, the evidence clearly and convincingly showed that services were available to respondent-mother, and it was her failure to utilize those services that led to the court’s decision to terminate her parental rights.

Finally, the trial court did not clearly err in its determination regarding the children’s best interests. MCL 712A.19b(5); *Trejo, supra* at 353. The evidence presented at the best interests hearing clearly and convincingly showed that respondents’ lives had deteriorated since the termination trial. Although there would likely be negative emotional repercussions on the children from the termination of respondents’ parental rights, especially teenagers Takiva and Felicia, it would be far worse to place the children in a deteriorating situation that now included not just drug use and possible domestic violence, but also criminal activity and a lack of adequate housing.

Affirmed.

/s/ Jessica R. Cooper

/s/ Joel P. Hoekstra

/s/ Michael R. Smolenski