

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AALIYAH PARIS WILLIAMS,
and KEVIN ALTON RAY CAMPBELL, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TAMIKO MICHELLE JEANEE WILLIAMS,

Respondent-Appellant,

and

KEVIN DEONTA CAMPBELL,

Respondent.

UNPUBLISHED

June 30, 2009

No. 289790

Wayne Circuit Court

Family Division

LC No. 07-469528-NA

Before: O’Connell, P.J., and Bandstra and Donofrio, JJ.

PER CURIAM.

Respondent Tamiko Michelle Jeanee Williams (“respondent”) appeals as of right the trial court’s order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii) (desertion), (g) (failure to provide proper care), (j) (reasonable likelihood child will be harmed if returned to the parent’s home), and (k)(i) (abuse that includes desertion).¹ We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

MCL 712A.19b(3) provides for termination under the following relevant circumstances:

¹ It appears that the trial court may have also relied on § 19b(3)(c)(i) as an additional statutory ground for termination. In its decision, the trial court specifically identified §§ 19b(3)(a)(ii), (g), (j), and (k)(i), as statutory bases for termination. Although the court did not specifically refer to § 19b(3)(c)(i), it recited the statutory requirements for that subsection and found that those requirements were proven by clear and convincing evidence. On appeal, respondent does not address § 19b(3)(c)(i). In any event, because we conclude that termination was justified under the remaining statutory grounds, it is unnecessary to consider § 19b(3)(c)(i).

(a) The child has been deserted under either of the following circumstances:

* * *

(ii) The parent of the child has deserted the child for 91 or more days and has not sought custody of the child during that period.

* * *

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial disposition order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

(i) Abandonment of a young child.

The record amply demonstrates that trial court did not clearly err in finding that at least one statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The children first came to petitioner's attention on November 28, 2006, when respondent and Kevin tested positive for cocaine and opiates at Kevin's birth. Voluntary services were offered to respondent, including outpatient substance abuse treatment and infant support services, in an attempt to avoid removal of the children, but respondent did not participate in these services. As a result, on June 21, 2007, the children were removed from respondent's care, primarily because of her substance abuse. At the June 22, 2007, hearing on the petition for temporary custody, respondent's behavior suggested that she was under the influence of illegal substances. The trial court referred respondent for an immediate drug screen, but she claimed to be unable to provide a

sample. Respondent failed to appear at the next hearing. Respondent appeared at the August 7, 2007 hearing, admitting to allegations of drug use at the time of Kevin's birth and to her failure to complete a substance abuse treatment program; the trial court asserted jurisdiction over the children.

Respondent again failed to appear at the August 22, 2007 hearing; the trial court adopted petitioner's proposed treatment program in her absence. This program required respondent to complete an inpatient substance abuse program, to submit to weekly random drug tests, to participate in individual therapy and parenting classes, to obtain suitable housing and a legal source of income, to attend all court hearings and to maintain contact with the caseworker. The trial court allowed supervised visitation and warned respondent's counsel that if she did not participate with the treatment plan, her parental rights would be in jeopardy. Despite the court's warning, respondent failed to comply with any aspect of her treatment program.

Respondent began a 30-day inpatient treatment program in August 2007, but left after 12 days. She failed to provide a single drug screen, admitting upon the court's inquiry that she would test positive for marijuana if screened following the adjudication hearing on November 5, 2007. Although she vowed to go into treatment that day, there was no indication that she ever resumed any treatment program. Respondent also began but did not complete parenting classes; she attended the first five sessions, but thereafter was terminated from that program for failure to attend. Respondent failed to visit the children at all during the 17-month period preceding the termination hearing, failed to consistently attend court hearings,² and last verbalized a desire to seek custody of the children in August 2008, almost four months before the termination hearing. At that time, respondent called petitioner indicating that she wanted to plan for the children. An appointment was scheduled for the next day to provide her with referrals to assist her in working toward that goal. However, respondent failed to attend that appointment. And, at the time of the termination hearing, respondent had not yet obtained suitable housing and had not demonstrated legal employment.

Concerning subsection (3)(a)(ii), desertion, there was no evidence that respondent visited the children at any time after July 2007. Thus, respondent failed to visit for 17 months before the termination hearing. Respondent last expressed a desire to plan for the children four months before the termination hearing. However, as noted above, despite her expression of interest, respondent failed to appear for her appointment the very next day. Thus, there was clear and convincing evidence to support the trial court's finding that respondent had deserted the children for more than 91 days, and that she had not sought custody of the children during that period. Termination of her parental rights was justified under subsection (3)(a)(ii).

Concerning subsection (3)(g), failure to provide proper care, the evidence showed that during the 18 months the children were in care, respondent did not address her substance abuse

² Respondent attended only 4 of the 12 hearings held to plan for her children; she missed the first hearing after the children were taken into care, held on July 12, 2007, the first dispositional hearing after the court asserted jurisdiction, held on August 22, 2007, and failed to appear at any hearing held after May 12, 2008, including the termination hearing, held on December 10, 2008.

issue, and did not visit the children at all after the first month. She initially appeared in court inconsistently, sometimes appearing under the influence of drugs, but did not appear at all after May 12, 2008. She provided no evidence of a legal source of income, or of suitable housing. She did not complete counseling or parenting classes. Thus, there was clear and convincing evidence to support the trial court's finding that, without regard to her intent, respondent failed to provide proper care for the children and that, considering her failure to make any progress during the 18-month duration of this case, there was no reasonable expectation that she would be able to provide proper care within a reasonable time, considering the ages of the children. Termination was also warranted under subsection (3)(g).

Because we find that the evidence presented clearly supported termination of respondent's parental rights under subsections (3)(a)(ii) and (g), we need not address the remaining grounds cited by the trial court. However, we note that we would conclude that each of those grounds was supported by clear and convincing evidence as well.

Having found that at least one statutory ground for termination was established by clear and convincing evidence, the trial court was required to order termination of parental rights upon its finding "that termination of parental rights is in the child's best interests[.]" MCL 712A.19b(5). We review that finding for clear error. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000).

The evidence presented at the termination hearing clearly established that respondent had completely failed to meaningfully address, let alone rectify, her substance abuse problem, and that she failed to visit the children at any time during the previous 17 months. Further, respondent failed to attend hearings or keep in contact with the caseworker, failed to obtain suitable housing and a legal source of income, and failed to complete counseling and parenting classes. There was evidence that Aaliyah had a bond with respondent when she was taken into care but that, as of December 2008, that bond had been destroyed by respondent's failure to visit. And, there was no evidence that Kevin was bonded to respondent at all at the time of termination. Therefore, there was clear and convincing evidence to support the trial court's finding that termination of respondent's parental rights was in the children's best interests. Thus, the trial court did not err in terminating respondent's parental rights to the children.

We affirm.

/s/ Peter D. O'Connell
/s/ Richard A. Bandstra
/s/ Pat M. Donofrio