

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHARAN MELINDA LASTER,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHARLES FREDERICK CHAPMAN,

Respondent-Appellant,

and

SERITA LASTER,

Respondent.

UNPUBLISHED

March 9, 2004

No. 249874

Saginaw Circuit Court

Family Division

LC No. 02-027616

Before: Hoekstra, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

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

The child was taken into the court's custody in March 2002, when she was six months old, after her mother, whose parental rights to several other children had previously been terminated, used cocaine while the child was in her care. The mother's parental rights to this child were also terminated, and the trial court established jurisdiction over the child while respondent-appellant, the child's father, sought to regain custody. Respondent-appellant admitted that he had been diagnosed with paranoid schizophrenia and other personality disorders and had a prior criminal history. Among other things, respondent-appellant's parent-agency agreement required him to show that he was properly managing his mental illness, had suitable housing for himself and the child, had successfully completed parenting classes, was abstaining from alcohol and illicit drug use, and was avoiding criminal activities and arrests. By the time of the termination proceeding in June 2003, respondent-appellant was incarcerated on charges of armed robbery and conspiracy to commit armed robbery and had other charges pending for possession of drugs and weapons. Evidence at trial showed that respondent-appellant had not completed parenting classes, had missed nine of twenty-four scheduled visits with the child and

been late for four others, had not interacted appropriately with the child at the visits he did attend, had failed to submit any of the required urine samples necessary to test for drug and alcohol use, had not visited with his psychiatrist since October 2001, and was not taking the medication prescribed by his doctor to treat his schizophrenia.

Respondent-appellant first argues on appeal that petitioner failed to provide services tailored to his mental illness, in violation of Michigan's Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.* However, violations of the act must be raised at the proceedings below and may not be used as a defense against termination of parental rights proceedings. *In re AMB*, 248 Mich App 144, 195; 640 NW2d 262 (2001); see *In re Terry*, 240 Mich App 14, 24-27; 610 NW2d 563 (2000). Therefore, respondent-appellant's argument is improperly raised. Regardless, respondent-appellant can hardly complain where he failed to attend, or participate in, many of the services offered to him.

Respondent-appellant also argues that termination was erroneous under subsection 19b(3)(g) where he offered three alternative homes to care for the child and under subsection 19b(3)(c)(i) where there was insufficient time granted to respondent-appellant to rectify the conditions leading to the adjudication. The facts do not support respondent-appellant's argument. Petitioner deemed two of the homes offered by respondent-appellant unsuitable. The third home could not be investigated because the individuals failed to respond to petitioner's requests for the necessary information. Respondent-appellant was given ample time but completed little of his parent-agency agreement, failing to address concerns regarding his mental health, his substance abuse, and his parenting skills, and he had been arrested and was being tried on charges of further criminal conduct. Under these circumstances, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot