

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRADY MICHAEL BOND II
AND PAYTON BENJAMIN BOND, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KATHRYN MARIE BOND and BRADY
MICHAEL BOND,

Respondents-Appellants.

UNPUBLISHED

March 18, 2004

No. 251730

Kalamazoo Circuit Court

Family Division

LC No. 01-000332-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Respondents appeal as of right the order terminating their parental rights to their sons. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A petition to take temporary jurisdiction of the children was filed on July 10, 2001, alleging that respondent Kathryn had a history of drug use and left the children unattended on June 8, 2001, and that the home was in a state of disarray. Respondents agreed to work with the FIA and the children were not removed from the home. Respondents subsequently failed to appear for four drug screens and failed to attend weekly substance abuse counseling. Respondent Brady tested positive for cocaine or marijuana on four separate occasions, and Kathryn tested positive for cocaine on three occasions. On July 15, 2003, a petition to terminate parental rights was filed, alleging that respondents had not attended counseling, continued to test positive for drugs, and had not had contact with the children since May 7, 2003.

At the termination hearing, a caseworker testified that he had last had contact with respondents on May 22, 2003, when they informed him that they were in Florida. They had not left a contact number and their relatives did not know where they were. A foster care worker testified that respondents relapsed into drug use shortly after they completed treatment programs. A psychologist testified that although one of the children wished to return to his parents, a return would be harmful to him. The court found that there was clear and convincing evidence that respondents had not complied with the parent/agency agreement, because they had failed to gain control of their substance abuse problems, failed to obtain suitable housing, and made no effort to stay in contact with their caseworker.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

There is clear and convincing evidence to support the termination of respondent's parental rights. Respondents do not contest the statutory basis for termination, but they assert that termination was not in the children's best interests because of problems they exhibited in foster care, and the difficulty in finding an adoptive placement for them. However, the behavioral difficulties are rooted in respondents' actions. Where respondents were unsuccessful in dealing with their substance abuse problems over an extended period of time, and failed to provide a suitable home, there is no showing that the best interests of the children would be met by returning them to respondents' custody. While the children had difficulties in foster care, there is no indication that their situation would be improved by returning them to their parents.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette