STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of VALERIE GEORGINA SCHULTZ, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOSEPH EDWARD SCHULTZ,

Respondent-Appellant.

UNPUBLISHED
April 13, 2004

No. 250484
Washtenaw Circuit Court
Family Division
LC No. 02-000026-NA

In the Matter of VALERIE GEORGINA SCHULTZ, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELLE NORMA TRUDEAU,

Respondent-Appellant.

No. 250506
Washtenaw Circuit Court
Family Division
LC No. 02-000026-NA

Before: O'Connell, P.J., and Jansen and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g) and (j). We affirm.

The trial court did not clearly err in determining that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); MCL 712A.19b(3). The

conditions leading to adjudication were respondent father's sexually inappropriate touching of respondent mother's other daughter, respondent mother's failure to separate her children from respondent father, and respondents' lack of suitable housing. Other conditions that arose during the course of the proceedings were respondents' unemployment and respondent father's mental health issues, cognitive limitations, and high risk for reoffending. Although respondent father did not receive recommendations for rectification from the agency, he did receive the recommendations required in §19b(3)(c)(ii) from his counselor, Senta Rose, and was given an opportunity to show any effort toward rectification at hearings.

The evidence showed that respondent mother's parental rights to her two older children were terminated in June 2002 because the same conditions leading to adjudication in that case were not rectified. The goal at the initial disposition in this case was termination of both respondents' parental rights because respondent mother had not progressed in recognizing that respondent father posed a danger to Valerie, and because respondent father was a sexual offender, having been convicted of criminal sexual conduct involving a child in 1983.

Respondent father was not provided with services because the initial case service plan indicated that the goal was termination. Respondent mother had been provided services in her prior proceeding and they continued into this proceeding. During the two-year course of these proceedings, respondents were employed sporadically, never established stable housing, and lived in a shelter for several months prior to termination. They attended a few counseling sessions, and the counselor testified that respondent father had not yet taken the first step in therapy, which was to admit wrongdoing. The counselor testified that respondent father should never be left alone with any child, even his own, and that his risk of reoffending was high. Respondent mother terminated her counseling after five sessions.

Respondents were unable to provide basic necessities for themselves, let alone a child, and respondent father could not be allowed to parent Valerie because of his high risk of assaulting her. Respondent mother refused to believe that respondent father had ever acted in a sexually inappropriate way and would not protect Valerie. Therefore, it was clear that respondents had not rectified the conditions leading to adjudication or other conditions, were unable to provide Valerie with proper care or custody either in the present or reasonable future, and that Valerie was likely to be harmed if placed in their care. MCL 712A.19b(3)(c)(i), (c)(ii), (g) and (j).

Further, the evidence did not show that termination of respondents' parental rights was clearly contrary to the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). There was no parent-child bond because Valerie was removed from respondents at birth. No evidence indicated a detriment to Valerie if respondents' parental rights were terminated, and the trial court did not err in finding that termination was consistent with Valerie's best interests given respondents' inability to provide her with a safe, stable home and basic necessities.

Respondent father argues that he has a constitutional right to parent his child. The right to the care, custody, and control of a child is a "liberty" interest requiring the state to provide due process before it may interfere with parental rights. *Reist v Bay Circuit Judge*, 396 Mich 326, 341-342; 241 NW2d 55 (1976). However, when a statutory ground for termination has been established and the evidence indicates that termination is not contrary to the child's best

interests, the parent's rights yield to the state's interest in protecting the child. *In re Miller*, 433 Mich 331, 346-347; 445 NW2d 161 (1989). In this case, the trial court provided due process, and termination of respondent father's parental rights was proper.

Lastly, respondent father argues that the trial court erred in finding that reasonable efforts had been made to preserve the family where the evidence so clearly showed that no services had been provided respondent father. While perhaps not directly linked to reunification, the record reflects that respondent father was supposed to attend parenting classes, but he did not complete them. The trial court did not make specific findings of fact regarding reasonable efforts, but checked the box on the termination order stating that reasonable efforts had been made.

This case was a continuation of respondent mother's prior case where she was offered reunification services. Termination was the goal stated at the initial disposition in this proceeding. Petitioner presented an initial case service plan that did not include providing respondent father with reunification services, both because petitioner only sought termination and because it was petitioner's policy to avoid reunifying children with dangerous individuals, including those convicted of criminal sexual conduct. Under these circumstances, petitioner did not need to focus the case service plan on reunification, and petitioner was not required to provide specialized reunification services. MCL 712A.18f(3)(d). Moreover, efforts toward reunification were made with regard to respondent mother, and the termination order was a joint order applying to both respondents. Therefore, the trial court did not err when it indicated in the termination order that reasonable efforts toward reunification had been made.

Affirmed.

/s/ Peter D. O'Connell
/s/ Kathleen Jansen
/s/ Christopher M. Murray