

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TRE' VON FERGUSON, ADRIAN
DURIO, IYANA DURIO, and BOBBIE DURIO,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JERMAINE DURIO,

Respondent-Appellant,

and

SHARONDA FERGUSON,

Respondent.

UNPUBLISHED
September 28, 2004

No. 254673
Genesee Circuit Court
Family Division
LC No. 99-111397-NA

Before: Borrello, P.J., and Murray and Hood, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(g). We affirm.

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(G)(3) and (J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The children were removed from respondent-appellant's custody after allegations that he had failed to properly supervise the children and had used cocaine while the children were in his care were substantiated. Under his parent-agency agreement, respondent was required to (1) participate in substance abuse treatment, (2) submit random drug screens, (3) obtain and maintain housing, (4) submit to a psychological evaluation, (5) visit the children, and (6) attend parenting classes and demonstrate his ability to incorporate learned techniques into parenting time. Respondent-appellant failed to substantially comply with the parent-agency agreement. While he did complete a drug treatment program, between July 15, 2002, and September 17, 2003, he missed at least thirty of the requested random weekly screens and had tested positive for drug use three times. Between September 17, 2003, and

January 29, 2004, respondent-appellant submitted only twenty-two of thirty-two requested screens, with one positive result for cocaine. Respondent-appellant lacked stable, suitable housing, and had provided five different mailing addresses to petitioner during the period between September 17, 2003, and January 29, 2004. Two of the children, who were only three and two years old when taken into the court's custody, were extremely physically aggressive and, despite having completed parenting classes and being advised on how to respond, respondent-appellant encouraged this aggressive behavior. Respondent-appellant's psychological evaluation raised a number of concerns regarding his ability to parent the children. Based on the foregoing evidence, the trial court properly found that MCL 712A.19b(3)(g) had been established by clear and convincing evidence.¹

Finally, the trial court did not clearly err when it concluded that termination was not clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 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 children.

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood

¹ Although respondent-appellant also argues against termination under MCL 712A.19b(3)(c)(i) and (j), the trial court did not rely upon these sections as support for termination of respondent-appellant's parental rights.