

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JACQUELYN LOUISE LAW and
THOMAS LYLE LAW II, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

THOMAS LYLE LAW, SR.,

Respondent-Appellant.

UNPUBLISHED

October 12, 2004

No. 255466

Grand Traverse Circuit Court

Family Division

LC No. 01-000477

Before: Griffin, P.J., and Saad and O'Connell, JJ.

MEMORANDUM.

Respondent appeals the trial court's order that terminated his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), and we affirm.

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(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent acknowledges that the conditions that led to adjudication, his drinking and lack of employment and suitable housing, continued to exist at the time of termination. However, respondent argues that he was in the midst of rectifying these conditions by participating in a ninety-day inpatient substance abuse treatment program. There was testimony at the termination trial that respondent's prognosis was good and that respondent had employment upon release. However, respondent had previously completed a two-week intensive outpatient program and a twenty-one day inpatient program, and neither had caused him to stop drinking. His children had already waited nine months for him, and, even were he successful in overcoming his alcoholism and maintaining sobriety, it was likely to take much more time for him to find and maintain suitable housing and establish a stable environment for his children. Moreover, respondent did not voluntarily enter treatment, but was placed there by his parole officer. The trial court did not clearly err when it determined that there was not a reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time given the ages of the children. The same evidence establishes that respondent had not provided proper care or custody of his children in the past and would not be able to provide proper care and custody within a reasonable time.

Respondent argues that the trial court erred in finding that the children would be harmed if returned to his home because there was no evidence that he had ever abused the children. While it is true that respondent was never physically abusive towards the children, respondent could not have taken custody of the children at the termination hearing because he was in the middle of a residential treatment program and would face parole problems if he were to leave the program. Furthermore, there was evidence that the children were stressed by visits with respondent and relieved when he cancelled or did not appear for visits. If respondent continued to abuse alcohol, it is reasonably likely that the children would be psychologically harmed in his custody.

Affirmed.

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O'Connell