

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CARLA DELORIS MORRIS and
CARISSMA ISABELL MORRIS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DERRICK MORRIS,

Respondent-Appellant,

and

MARLA DAWSON,

Respondent.

UNPUBLISHED

October 26, 2004

No. 255222

Van Buren Circuit Court

Family Division

LC No. 99-012488-NA

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

PER CURIAM.

Respondent-appellant Derrick Morris appeals as of right from the trial court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err by 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-appellant clearly failed to provide proper care and custody for the minor children by leaving them in the care of their mother when she was not capable of caring for them because of her drug use and by engaging in domestic violence in view of at least one of the children. MCL 712A.19b(3)(g). The evidence also supported the trial court's finding that respondent-appellant would be unable to provide proper care and custody for the children in the reasonable future, and that there was a reasonable likelihood that the children would be harmed if returned to his care. MCL 712A.19b(3)(g), (j). Respondent-appellant continued to maintain a relationship with the children's mother, who is addicted to cocaine, and failed to complete five treatment programs during this matter. Psychological evidence indicated that the parents thrive on a codependent relationship, and respondent-appellant is unable to choose the children over their mother. The relationship is fraught with domestic violence, a

problem that has not been ameliorated by counseling. Moreover, respondent-appellant continued to rely on respondent mother to coparent.

Respondent-appellant argues on appeal that his continued relationship with respondent mother should not be a basis for terminating his parental rights when the counseling offered him was directed at preserving that relationship, and he was never advised that he needed to sever the relationship in order to be reunited with his children. Respondent-appellant's argument is undercut by his own testimony that he was advised at the second team meeting that, if he wanted to get his children back, he would have to break off his relationship with the children's mother. Furthermore, the testimony indicated that the treatment plan was parent driven. In short, it was the choice of respondent-appellant whether to work toward reunification with the children, together with their mother or separate from her. He chose to remain with the children's mother, despite her ongoing cocaine addiction, but failed to assume responsibility as the primary parent and failed to make improvements in the relationship necessary for the return of the children.

Respondent-appellant also argues that, upon removal of the children, the focus of this case shifted away from reunification. In general, when a child is removed from the custody of the parents, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. *In re Terry*, 240 Mich App 14, 26 n 4; 610 NW2d 563 (2000). Arguing that the "bar" was unfairly raised, respondent-appellant notes that he was required to undergo domestic violence counseling only after Ms. Cole became the caseworker, approximately one and one-half years after these proceedings began. While the requirement for domestic violence counseling ideally might have been started earlier in these proceedings, we conclude that the later provision of this service does not constitute an unreasonable barrier to reunification, as respondent-appellant appears to argue, but a wholly appropriate service directed towards reunification. There was no unfairness in the order for respondent-appellant to engage in domestic violence treatment. The petition seeking termination of respondent-appellant's parental rights was not filed until approximately eleven months later, and the termination trial was not concluded until sixteen months later. Respondent-appellant had ample time to address this issue but failed to successfully do so.

In further support of his claim that the workers did not seek reunification, or perhaps that their efforts were not sincere, respondent-appellant claims that the worker failed to intervene when problems arose with the children's maternal grandmother, Susie Brown, concerning visitation. The record does reflect that Ms. Brown at times refused to supervise respondent-appellant's visits with the children in her home. However, this problem existed for only a limited time during the pendency of this case, during which respondent-appellant received visitation in his own home, with transportation of the children to the home by the agency. Thus, while it appears that respondent-appellant may have been denied some visits at Ms. Brown's residence for a limited period during this case, the workers made reasonable efforts towards reunification by providing visits at respondent-appellant's home.

It does appear that, in August 2003, visitation was changed to a time when respondent-appellant was working, an arrangement that remained in place for several weeks and caused respondent-appellant to miss two visits. However, the unfairness to respondent-appellant was largely mitigated by the fact that he was permitted six hours unsupervised visitation per week in addition to the inappropriately scheduled visits. Upon review of the entire record, we conclude that petitioner's efforts toward reunification were reasonable. *In re Terry, supra*.

Finally, the trial court did not clearly err by finding that termination was not contrary to the best interests of the children. MCL 712A.19b(5). While it is clear that there is a positive bond between respondent-appellant and the children, the record as a whole does not indicate that termination was clearly contrary to the best interests of the children. Despite their bond, respondent-appellant has failed to demonstrate that he can meet the daily needs of the children.

Affirmed.

/s/ Richard Allen Griffin

/s/ Henry William Saad

/s/ Peter D. O'Connell