

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of THATIUS GATES and REBECCA
GATES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID GATES,

Respondent-Appellant.

UNPUBLISHED

October 26, 2004

No. 255742

Kent Circuit Court

Family Division

LC No. 99-006672-NA

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

MEMORANDUM.

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

The trial court did not clearly err in determining that the statutory grounds were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). The court terminated the parental rights of the children's mother at the initial disposition, and respondent was ordered to comply with a parent agency agreement that focused on addressing his substance abuse. Respondent was provided a variety of services, including a psychological exam, substance abuse assessments, referrals for individual counseling, group sessions, residential and outpatient treatment, and drug screens. Over approximately a ten-month period, respondent did not comply with the treatment programs to any significant degree and continued to have drug screens that were positive for cocaine and marijuana. In addition, respondent continued to have a relationship and live with the children's mother although her parental rights had been terminated. At the termination trial, respondent stated that he could not begin drug treatment until he underwent and recovered from a hip replacement, which would require another four or five months. While respondent argues that he was not given enough time, that he was in substantial compliance with the parent agency agreement; and that reasonable efforts were not made to assist him in complying with the agreement, the evidence clearly demonstrates that the services offered to respondent were significant, that respondent was not in substantial compliance, that respondent's reasons for not following through were excuses because respondent did not tell the caseworkers that his health prevented him from participating in services, and that he had

adequate time to show some progress. The minor children, ages one and two at the time of termination, could not wait any longer for respondent to begin addressing his substance abuse.

Finally, the trial court did not clearly err in determining that termination of respondent's parental rights was not contrary to the best interests of the minor children. There is nothing in the testimony or exhibits admitted at the hearings that would support an argument that termination of respondent's parental rights was not in the best interests of these young minor children.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra