

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of WESLEY CALVIN  
BURBRIDGE, Minor.

---

DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
September 15, 2005

Petitioner-Appellee,

v

WESLEY BURBRIDGE, SR.,

Respondent-Appellant.

---

No. 261659  
Ingham Circuit Court  
Family Division  
LC No. 00-375093-NA

Before: Bandstra, P.J., and Neff and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the order terminating his parental rights pursuant to MCL 712A.19b(3)(a)(ii), (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 finding that clear and convincing evidence established statutory grounds for termination. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Although respondent contends that his lack of contact with his son was not desertion within the meaning of MCL 712A.19b(3)(a)(ii) because it was not voluntary but the consequence of his incarceration, he has provided no authority to support his position that MCL 712A.19b(3)(a)(ii) requires a showing of voluntary desertion. There was testimony that in the past respondent attempted to contact his son but failed to do so because the mother moved around the country and state. However, once incarcerated, respondent failed to actively initiate contact with his son, and he acknowledged at the termination hearing that it had been almost two years since his last contact with his son. Therefore, the trial court did not clearly err in determining that respondent's actions constituted desertion, that respondent deserted his son for more than ninety-one days, and that respondent did not seek custody of him during that period.

The evidence also establishes MCL 712A.19b(3)(c)(i) and (g). Although the petition did not specifically state that respondent deserted his son, the petition alleged that respondent's "last known location was with the Michigan Department of Corrections approximately 5 years ago."

At the time of the hearing, respondent was still incarcerated and still had not contacted his son or developed a plan for caring for him. We acknowledge that respondent testified that the child could stay with respondent's sister until he was able to "get on his feet." However, respondent did not provide any details concerning how this arrangement would work. In addition, even if respondent were released on his scheduled out date, he still had to obtain appropriate housing and employment and establish a relationship with his son.

Finally, respondent contends that the trial court erred in finding that no evidence was presented showing that termination of his parental rights would not be in the child's best interests. Respondent testified that he did not want his parental rights terminated because he wanted an opportunity to be father to his son, who, at the time of the hearing, was sixteen years old. However, respondent had a number of years to be a father but did not take advantage of that opportunity. In addition, there was evidence that the child had a deep connection with his foster family who were both familiar with and capable of addressing the minor's challenges. Even the minor's advocate argued for termination and the evidence suggested that as the minor became more connected with his foster family, he experienced a lesser need for his biological family. Therefore, we find that the trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ Richard A. Bandstra  
/s/ Janet T. Neff  
/s/ Pat M. Donofrio