STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ANGELICA DENISHIA DUNKLIN and CLEVLAND DUNKLIN IV, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHEILA DENISE TREADWELL,

Respondent,

and

CLEVELAND DUNKLIN,

Respondent-Appellant.

UNPUBLISHED
December 20, 2005

No. 260873
Wayne Circuit Court
Family Division
LC No. 83-236110

Before: Whitbeck, C.J., and Talbot and Murray, JJ.

PER CURIAM.

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

I. Parental Fitness

Dunklin's parental fitness is measured by statutory standards.[1] "Once the petitioner has presented clear and convincing evidence that persuades the court that at least one ground for

[1] *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *Fritts v Krugh*, 354 Mich 97, 115; 92 NW2d 604 (1998), overruled on other grounds in *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993).

termination is established under section 19b(3), the liberty interest of the parent no longer includes the right to custody and control of the children."[2]

Here, termination under § 19b(3)(g) was permitted at the initial dispositional hearing.[3] It was not necessary that Dunklin be provided a treatment plan because the goal for the children was permanent placement.[4] Although the reasonableness of any services provided to Dunklin are nonetheless a relevant consideration, the ultimate question for the trial court was whether § 19b(3)(g) was established by clear and convincing evidence.[5]

Giving due deference to the trial court's assessment of credibility, we conclude that the trial court did not clearly err in finding that § 19b(3)(g) was established by clear and convincing evidence.[6] The trial court reasonably concluded from the evidence that Dunklin was afforded an opportunity to plan for the children, separate from the mother, and seek drug treatment. Dunklin's own testimony indicated that he did not take advantage of these opportunities. He denied using cocaine and testified that it was his intent to raise the children with their mother. In light of the clear and convincing evidence of Dunklin's admitted use of crack cocaine, failure to provide proper supervision for the children, and failure to protect the children from their mother, who herself had an unresolved substance abuse problem and a history of leaving the children without adequate supervision, the trial court did not clearly err in finding that termination of respondent-appellant's parental rights was warranted under § 19b(3)(g).

II. Termination Of Parental Rights

Termination of Dunklin's parental rights under § 19b(3)(j) was also permitted at the initial dispositional hearing[7] and the trial court did not clearly err in finding that this statutory ground was established by clear and convincing evidence.[8] The children's placement with their paternal aunt did not constitute a return home under § 19b(3)(j). Regardless of where Dunklin lived, the trial court could find that the children faced at least a reasonable likelihood of harm to their mental well being, based on Dunklin's conduct, if they were returned to his home.

Finally, we agree that the trial court could not properly apply § 19b(3)(i) to Dunklin, because only the mother's parental rights to other children were previously terminated. To the extent that the record indicates that § 19b(3)(i) may have been applied to Dunklin, however, the

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[2] *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

[3] MCL 712A.19b(4); MCR 3.977(E)(3)(b).

[4] See MCL 712A.18f(3)(d).

[5] *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

[6] MCR 3.977(J); *In re JK*, *supra* at 209-210; *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

[7] MCL 712A.19b(4); MCR 3.977(E)(3)(b).

[8] MCR 3.977(J); *In re Miller*, *supra* at 337.

error was harmless because a statutory ground for termination was independently established under §§ 19b(3)(g) and (j).[9]

Because a statutory ground for termination was properly established, termination was mandatory absent "clear evidence, on the whole record, that termination is not in the child's best interests."[10] Based on our review of the record, we are not persuaded that the trial court clearly erred in assessing either child's best interests.[11]

Affirmed.

/s/ William C. Whitbeck
/s/ Michael J. Talbot
/s/ Christopher M. Murray

[9] *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

[10] *In re Trejo, supra* at 354; MCL 712A.19b(5).

[11] *Id*. at 356-357.