

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DYEMESHEANN CLAIBORNE
and ALMA CLAIBORNE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SANFORD CLAIBORNE,

Respondent-Appellant,

and

TANYA CLEMONS,

Respondent.

UNPUBLISHED

March 1, 2007

No. 270099

Genesee Circuit Court

Family Division

LC No. 02-115391-NA

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Respondent¹ appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), (j), and (k). We affirm.

The trial court did not clearly err in finding that at least one of the statutory grounds for termination of respondent's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). At the outset of this proceeding, respondent made an effort to care for the children. However, clear and convincing evidence showed that he failed to benefit from the domestic violence classes that he completed in 2003, failed to thereafter complete counseling, substance abuse treatment and another set of domestic violence classes, and maintained independent housing for only four months of this 33-month proceeding. He failed to rectify the issues of domestic violence, substance abuse, lack of

¹ Because respondent Tanya Clemons is not a party to this appeal, references to "respondent" refer to Sanford Claiborne only.

legal custody, and lack of independent housing that caused Dyemesheann and Alma to become court wards, and thus the trial court did not err in terminating his parental rights under subsections 19b(3)(c)(i) and (ii).

Clear and convincing evidence showed that respondent failed to provide proper care or custody for the children, and that there was no reasonable expectation that he would be able to do so within a reasonable time. He was offered services for 33 months but was able to parent the children independently for only three to four months before returning to his mother's residence. He also did not proactively seek the children's custody after June 2004, but rather, allowed their mother to reunite with the children with disastrous effect, and became completely noncompliant with services after April 2005, thus failing to rectify his alcohol abuse, domestic violence and housing issues. Respondent's father also testified that respondent was not able to provide proper care for the children. The trial court thus did not err in terminating respondent's parental rights under subsection 19b(3)(g).

Further, although the evidence did not show that respondent physically harmed his children in an affirmative way, he added domestic violence to their home life, harmed them emotionally by failing to benefit from services and become able to care for them within a reasonable time, and was responsible for three-year-old Dyemesheann's and two-year-old Alma's wardship and residence with four different caretakers during their young lives. Thus, the trial court did not err in terminating respondent's parental rights under subsection 19b(3)(j).

Respondent's failure to benefit from services and obtain custody of the children instead of their mother did not directly cause Dyemesheann's severe burns. His acts or omissions were too attenuated to provide clear and convincing evidence of any of the elements of subsection 19b(3)(k). Accordingly, the trial court erred by relying on this subsection in terminating respondent's parental rights.

Lastly, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence clearly showed that respondent, after being offered services for 33 months, was not able to properly care for the children and did not vigorously pursue their custody. After three years of unsuccessful attempts at reunification and several different caretakers, it was time for the children to have one set of stable, permanent, competent parents to raise them.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder