

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAVID JESSE JOHNSON,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TERENCE JOHNSON,

Respondent-Appellant.

UNPUBLISHED

March 13, 2007

No. 272834

Macomb Circuit Court

Family Division

LC No. 2005-058713-NA

Before: Servitto, P.J., and Talbot and Schuette, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (g), (h), and (k)(ii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that the trial court erred in allowing the petitioner to amend the petition at trial. We disagree.

Just before the adjudication hearing, the prosecutor requested that the petition be amended to include termination language at original disposition. However, the dispositional hearing did not take place until a month later, giving respondent 30 days notice of the fact that termination would be sought. This was more than adequate notice for purposes of MCR 3.920(B)(5)(a)(i) and 3.920(C)(3)(b), which require only 14 days notice of a hearing on a petition seeking to terminate parental rights. Respondent's contention that he was somehow denied proper notice is thus without merit.

Respondent next contends that the trial court erred in 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). We disagree.

Respondent admitted that, in April 2006, a jury convicted him of accosting a child for an immoral purpose and criminal sexual conduct in the second degree. He was sentenced to two to fifteen years' imprisonment for that conviction. It was determined beyond a reasonable doubt, therefore, that respondent molested the minor child, who was the victim of respondent's

offenses. Respondent sought to discredit the conviction during the termination proceedings, but he was repeatedly admonished that the referee was not going to judge the facts of the criminal case but only whether respondent's parental rights should remain intact. Given the seriousness of the offense, the length of the sentence, and the fact that the victim was the child at issue, termination was proper pursuant to MCL 712A.19b(3)(b)(i), (g), (h), and (k)(ii).

Having found the foregoing subsections proven by clear and convincing evidence, the trial court was obligated to terminate respondent's parental rights unless it appeared, on the whole record, that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The prosecutor stipulated to the fact that respondent spent time with his son at church and studying the Bible. This did nothing to change the fact that respondent was convicted of sexually assaulting the child. Additionally, there was evidence that the child was susceptible to manipulation. Both the worker and the child's attorney indicated that a total break from respondent was warranted.

Affirmed.

/s/ Deborah A. Servitto
/s/ Michael J. Talbot
/s/ Bill Schuette