STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of BRENNON MICHAEL FANN,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL EDWARD FANN,

Respondent-Appellant,

and

CHRISTINA KATHLEEN AUSTIN,

Respondent.

UNPUBLISHED
November 29, 2007

No. 277192
Oakland Circuit Court
Family Division
LC No. 05-710117-NA

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DEPARTMENT OF HUMAN SERVICES,

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Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right a circuit court order terminating their parental rights pursuant to MCL 712A.19b(3)(a)(ii), (b)(i) [respondent mother only], (c)(i), (g), and (j). We affirm. We are deciding these appeals without oral argument pursuant to MCR 7.214(E).

On December 11, 2006, respondents pleaded responsibility for allegations in a supplemental permanent custody petition. The circuit court conducted a best interest hearing on February 6, 2007 and February 28, 2007. Respondent mother declined to participate in the hearing, and instead admitted that she lacked the capacity to provide Brennon with proper care. Respondent father presented evidence.

The record of the hearing reveals that petitioner initially removed Brennon from respondents' home in July 2005, after a complaint of child abuse against respondent mother.[1] Respondents subsequently signed a parent-agency agreement, which required them to abstain from drug and alcohol use, to obtain various evaluations and services, and to undergo random drug and alcohol screens. Respondent father submitted positive screens on August 31, 2005 (for cocaine and alcohol), and November 3, 2005 (cocaine). He was incarcerated from June 22, 2006 until November 26, 2006 for defrauding a public utility. As of the first date of the best interests hearing, respondent father lived in a work release facility. Respondent father owned a home, but was three months behind on his mortgage payments. When the hearing continued, testimony revealed that respondent father awaited trial on two new criminal charges. His caseworker told the circuit court that although respondent father had successfully completed the work release program, his participation in concurrent therapies was "less than what would be considered appropriate," and she characterized his prognosis as "guarded."

The circuit court issued a lengthy written opinion, concluding that the evidence presented did not support a finding that terminating respondents' parental rights would clearly contravene Brennon's best interests. In its opinion, the court cited respondent mother's ongoing struggle with substance abuse, and expressed "great concern" regarding the severity of the physical abuse she inflicted on Brennon's sibling. The circuit court also noted that the mother's compliance with the parent-agency agreement "was far from substantial," and that her housing was "unstable." As to respondent father, the circuit court wrote the following:

> Despite Respondent-Father's *very* recent efforts at getting his life together, which I attribute to his *criminal* court involvement, I am unable to find that he is able to appropriately care for Brennon. Further, considering Brennon's age, I am unable to find that he will be able to care for him within a reasonable time. I do believe that Respondent-Father is doing *just enough* to get through his court-

[1] The child abuse complaint involved Brennon's older sister.

ordered programs and not taking his substance abuse problems seriously. [Emphasis in original.]

On March 9, 2007, the circuit court entered an order terminating respondents' parental rights.

This Court reviews for clear error a circuit court's finding that a ground for termination has been established by clear and convincing evidence "and, where appropriate, the court's decision regarding the child's best interest." *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005) (internal quotation omitted); see also MCR 3.977(J). Clear error exists when some evidence supports a finding, but a review of the entire record leaves the reviewing court with the definite and firm conviction that the lower court made a mistake. *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). If a court finds the existence of a statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it determines that to do so clearly would contravene the child's best interests. *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

In light of respondents' pleas and the evidence presented at the best interests hearing, the circuit court did not clearly err in terminating their parental rights. Ample evidence supports the court's finding that termination of respondents' parental rights does not clearly contravene Brennon's best interests. The circuit court correctly observed that Brennon was approximately 2-1/2 years of age when he was removed from respondents' care, and that he spent nearly two years in a relative placement, where he "has grown and thrived." The circuit court also correctly found that Brennon deserved "a permanent and stable home environment in which he will feel loved and safe."

Respondent mother argues that she should have been given more time to rehabilitate herself, and that petitioner's proffered services were not reasonable. Respondent mother did not raise these issues at the time of the termination trial or the best interests hearings. Moreover, the evidence clearly establishes that respondent mother received sufficient time and abundant services, yet failed to demonstrate that she could care for Brennon.

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher