

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARCUS ANTHONY
COVINGTON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BERNARD A COVINGTON,

Respondent-Appellant,

and

SHANDRA HUDSON,

Respondent.

UNPUBLISHED

December 18, 2007

No. 278018

Ingham Circuit Court

Family Division

LC No. 00-045915-NA

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

MEMORANDUM.

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

The trial court did not clearly err in finding that the statutory grounds for termination of respondent-appellant's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant was unable to provide proper care or custody for the child at the time of birth on May 16, 2006, because he was incarcerated until June 1, 2006. During this proceeding, he did not substantially comply with conditions of his parole, which led to continual parole violations resulting in incarceration for all but 74 days of the child's first year of life. Respondent-appellant's complete failure to comply with conditions of parole led to the incarcerations that made it impossible to substantially or effectively comply with the services ordered in this child protective proceeding. His frequent periods of incarceration were attributable only to his own lack of cooperation.

In addition to failing to substantially address his parenting, housing, employment, and substance abuse issues, respondent-appellant's words and actions indicated that he was not equipped to parent, did not appreciate the child's need for stability, felt uncomfortable holding an

infant, and was unable to independently care for a child. Although at the time of termination it was not certain that respondent-appellant would return to prison, it was certain that he would either return to prison or parole status. The evidence was clear and convincing in light of his lack of performance and progress during the first year of the child's life that he would not become able to provide proper care or custody within a reasonable time. If the child was placed in respondent-appellant father's custody, it was likely that he would suffer the harm of lack of proper care and nurturing, and the instability of frequent re-removals due to respondent-appellant's continual re-incarcerations.

Although respondent-appellant frames this issue on appeal as one of violation of his due process right to parent his child, it is well-established that once clear and convincing evidence establishes a ground for termination of parental rights under MCL 712A.19b(3), the liberty interest of the parent no longer includes the right to custody and control of the child. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000), citing *In re LaFlure*, 48 Mich App 377, 387; 210 NW2d 482 (1973).

Affirmed.

/s/ Christopher M. Murray

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder