

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMIE LAMBERT, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL LAMBERT,

Respondent-Appellant,

and

JENNIFER NELSON

Respondent.

Before: Talbot, P.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

Respondent-appellant Michael Lambert appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j).¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not err 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). The initial focus was on respondent-appellant's failure to take his medication for his mental health condition and the continuing domestic violence between respondent-appellant and the child's mother. Respondent-appellant was required to submit to drug screens, undergo a substance abuse assessment, attend parenting classes and counseling, attend anger management classes, take his medications, and attend joint couple's therapy counseling. Respondent-appellant failed to undergo a substance abuse assessment until after the

¹ The child's mother's parental rights were also terminated at the same proceeding, but she is not participating in this appeal.

first day of the termination trial. This late attempt to comply with the requirement served no purpose, especially in light of respondent-appellant's absolute failure to submit to drug testing and remain drug-free. Respondent-appellant had 19 opportunities to complete urine screens and participated only in five, which all tested positive for marijuana. Respondent-appellant admitted to continued use of marijuana as a stress-reliever, even after being informed that if his THC levels declined he would be entitled to unsupervised parenting time.

Respondent-appellant was also noncompliant with the portion of his parent-agency agreement that required him to take his prescribed medication for his mental health issues. He was noncompliant with his medication for at least a week in December 2006, and then again in March, April, and May 2007. Additionally, respondent-appellant continued to use marijuana, which negated any positive health effect from his prescribed medication.

Respondent-appellant was ordered to participate in couple's counseling. Attendance was good because the counselor came directly to the couple's home. However, respondent-appellant and the child's mother were often in bed when she arrived, and the counselor reported there were a number of instances when respondent-appellant would play video games and refuse to engage in the sessions. The counselor also reported an incident in which respondent-appellant told her that, if the maternal grandparents raised the child, the child would grow up to be a whore, like her mother. Based on his lack of participation and his inappropriate comment, it was clear that respondent-appellant gained little insight from the counseling sessions.

Respondent-appellant was also referred to anger management classes. Although considerable emphasis was placed on the fact that respondent-appellant completed the classes by the time of trial, records denote that his participation was sporadic. By the time the termination petition was filed, he had attended only eight of 16 sessions. In addition to his sporadic attendance, respondent-appellant gained little insight from the classes as evidenced by his behavior in court on the first day of the termination trial when he stormed out of the courtroom resulting in damage to the courtroom door.

Respondent-appellant's housing situation remained problematic. He and the mother continued to live together even though the caseworker believed that the relationship remained extremely volatile. The couple's heat had been shut off and they were facing eviction. Respondent-appellant also failed to demonstrate his financial contribution to household expenses despite frequent requests for documentation.

Based on this evidence the trial court did not clearly err in terminating respondent-appellant's parental rights. The conditions leading to adjudication continued to exist. "Other" conditions identified by the court existed, which respondent-appellant failed to rectify in a timely manner. As a result, the trial court found respondent-appellant was unable to provide proper care or custody for the child and that the child would likely incur harm if placed in his care.

Having found a basis for the termination by clear and convincing evidence, the trial court was obligated to terminate respondent-appellant'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). Respondent-appellant did not take advantage of all his visitation opportunities with the child and did nothing to curb his marijuana use, which would have allowed him unsupervised visitation. Given respondent-appellant's lack

of progress and motivation and the child's entitlement to permanency and stability, it cannot be said that termination of his rights was contrary to the child's best interests.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Brian K. Zahra