

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JULIAN ALEJANDRO LARES,
Minor.

ALEX LARES AND GINA LARES,

Petitioners-Appellees,

UNPUBLISHED
March 4, 2008

v

ORLANDO ESCRIBANO,

Respondent-Appellant.

No. 279367
Kent Circuit Court
Family Division
LC No. 06-054379-NA

Before: Markey, P.J., and Meter and Murray, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating his parental rights under MCL 712A.19b(3)(e), (f), and (g). We affirm.

This Court reviews decisions terminating parental rights for clear error. MCR 3.977(J). Clear error has been defined as a decision that strikes this Court as more than just maybe or probably wrong. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000).

MCL 712A.19b(3)(e) states that parental rights to a child may be terminated if

[t]he child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

The trial court did not clearly err in finding that this subsection had been established by clear and convincing evidence. See MCL 712A.19b(3) (mentioning "clear and convincing evidence"). The court-structured plan that was implemented required that respondent complete a substance abuse program if he tested positive for drugs. Despite testing positive for drugs, respondent did not complete such a program. Respondent also failed to maintain employment as required by the plan and failed to provide proof that he had attended the parenting classes required by the plan. He also failed, on many occasions, to come in person to the guardian's house to obtain the child

for visitation. At the termination hearing, respondent admitted that he did not comply fully with the plan before he withdrew from it. In light of the evidence, we cannot conclude that the trial court clearly erred in finding that respondent failed to comply with the court-structured plan and that respondent's behavior resulted in a disruption of the parent-child relationship.

Nor did the trial court err with regard to MCL 712A.19b(3)(g). This subsection states that parental rights may be terminated if

[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Respondent failed to complete substance abuse counseling and had a child support arrearage. In fact, he had been jailed three times for nonpayment of child support. At one point he had agreed to give up his parental rights to the child. Evidence was presented that, at a visit he made after the termination of the court-ordered plan, he did not interact appropriately with the child. Evidence was also presented that, during the plan and after the termination of the plan, respondent did not telephone the guardians to inquire about the child's well-being and did not request telephone contact. Evidence was also presented that respondent did not request visitation for himself (as opposed to his mother) after the termination of the plan. Additionally, respondent had driven the child while not in possession of a valid driver's license. Under all the circumstances, we cannot conclude that the trial court clearly erred in concluding that MCL 712A.19b(3)(g) had been established by clear and convincing evidence. The trial court had a reasonable basis from which to conclude that respondent had not provided proper care for the child. Moreover, given respondent's pattern of behavior, the trial court also had a reasonable basis from which to conclude that respondent would not "be able to provide proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g).¹

The court also did not err in concluding that it would not be clearly contrary to the child's best interests to terminate respondent's parental rights. See MCL 712A.19b(5). The child did not have a substantial bond with respondent. Moreover, given his age and given that his mother had died, the child had a strong need for permanency. In light of these circumstances and in light of respondent's demonstrated lack of proper parenting, the termination of respondent's parental rights was not clearly contrary to the child's best interests.

¹ Because only one ground for termination need be established to justify a termination of parental rights, we decline to address the trial court's reliance on MCL 712A.19b(3)(j). See *Trejo, supra* at 360.

Affirmed.

/s/ Jane E. Markey

/s/ Patrick M. Meter

/s/ Christopher M. Murray