

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KAMERAN DOUGLAS  
MARSHALL SIGLER, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GROVER DAVIS,

Respondent-Appellant,

and

RICHARD FUENTES and BROOKE SIGLER,

Respondents.

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UNPUBLISHED

March 13, 2008

No. 281072

St. Joseph Circuit Court

Family Division

LC No. 2006-000511-NA

Before: Fitzgerald, P.J., and Smolenski and Beckering, JJ.

PER CURIAM.

Respondent Grover Davis appeals as of right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), and (j). We affirm.

Respondent first contends that the trial court judge erred in failing to disqualify himself sua sponte because of the judge's personal bias against respondent. Respondent relies, in part, upon the court's comments regarding respondent's contentious relationship with the child's mother and the court's participation in prior PPO proceedings involving respondent. To establish a judge's personal bias or prejudice, a litigant must overcome a heavy presumption of judicial impartiality. *Cain v Dep't of Corrections*, 451 Mich 470, 497; 548 NW2d 210 (1996). The litigant must demonstrate that the judge possessed an actual, personal and extrajudicial bias against him. *Id.* at 495. Judicial rulings and "[o]pinions formed by a judge on the basis of facts introduced or events occurring during the course of the current proceedings, or of prior proceedings, do not constitute bias or partiality unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Schellenberg v Elks Lodge No 2225*, 228 Mich App 20, 39; 577 NW2d 163 (1998). See also *Gates v Gates*, 256 Mich App 420, 440; 664 NW2d 231 (2003).

Respondent has not set forth any evidence that reveals or demonstrates any bias or animus on behalf of the trial court. The court's prior contact with respondent in the context of the PPO matters, alone, cannot disqualify the judge from the present proceeding. *Schellenberg, supra* at 39. Further, the court's description of the animosity between respondent and the mother, rather than demonstrating animus, simply represents a statement of fact borne out by the record. On several occasions during the termination hearing, respondent interrupted and interjected comments that were disrespectful and disparaging to the parties and the process. Based upon the prosecutor's comments, it appears that respondent's interjections were persistent and, at the very least, annoying. Yet at no time did the trial court admonish respondent for his poor conduct and lack of respect. On the contrary, the court expressed an intention to treat respondent fairly. Because respondent has failed to present any evidence overcoming the heavy presumption of judicial impartiality, there is no merit to this claim of error.

Next, respondent argues that the trial court erred in admitting into evidence a written psychological evaluation of respondent because it was inadmissible hearsay. Respondent further argues that the statutory grounds for termination were not established by clear and convincing evidence. Because the court took jurisdiction of the child based upon the mother's plea of admission, the statutory grounds for terminating respondent's parental rights had to be established by legally admissible evidence. MCR 3.977(F)(1)(b); *In re CR*, 250 Mich App 185, 205-206; 646 NW2d 506 (2002). Therefore, we conclude that the trial court erred in considering the hearsay evaluation to establish the statutory ground for termination. Nevertheless, we find that the error was harmless because petitioner presented other legally admissible evidence that clearly and convincingly established the statutory grounds for termination of parental rights. The mere existence of hearsay evidence at a termination hearing does not warrant reversal if there was ample clear and convincing, legally admissible evidence to support termination of the respondent's parental rights. *In re CR, supra* at 207.

Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(a)(ii), (g), and (j). Petitioner presented evidence that respondent did not visit the child or contact petitioner between October 31, 2006 and March of 2007. In March of 2007, when respondent was incarcerated, he contacted the foster care worker to request visitation. This was after respondent had ignored the child for several months. In addition, at least two witnesses testified that respondent physically and verbally abused the mother in her children's presence. Further, respondent failed to attend hearings, communicate with the caseworker, participate in services offered, or benefit from the services he previously utilized. Respondent also lacked suitable stable housing and he was jailed at the time of the termination hearing as a result of his alleged PPO violation.

The foregoing evidence, without the psychological evaluation, was sufficient to establish statutory grounds for terminating respondent's parental rights pursuant to MCL 712A.19b(a)(ii), (g), and (j). Because there was clear and convincing, legally admissible evidence establishing the grounds for termination, this Court finds no merit to respondent's arguments.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Michael R. Smolenski  
/s/ Jane M. Beckering