

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of XANDER MATTHEW NELSON,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANNETTE RAE PITTMAN-NELSON and
JASON MATTHEW NELSON,

Respondents-Appellants.

UNPUBLISHED

April 10, 2008

No. 279916

Ingham Circuit Court

Family Division

LC No. 06-015974-NA

Before: Murray, P.J., and Sawyer and Cavanagh, JJ.

PER CURIAM.

Respondents appeal as of right from an order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

Xander was made a temporary ward of the court on June 8, 2006, based on allegations that both parents posed a risk of harm to Xander. Respondent mother had assaulted the child's maternal grandmother and even attempted to run over respondent father with a car in the fall of 2005. Respondent father had assaulted his stepson Jacob and was arrested for operating a vehicle while under the influence of liquor, both in the fall of 2005. As a result of these incidents, Families First intervened and offered services to the family without court intervention. The focus was primarily on respondent mother's mental health, her need for a pharmaceutical regimen, and respondent father's issue with substance abuse. Although these services were deemed successful and eventually discontinued, the family again came to the attention of Child Protective Services in February 2006, when it was reported that respondent mother intentionally rammed her vehicle into another vehicle at her son's school. Jacob was injured in the accident and the ramming nearly totaled respondent mother's vehicle. Respondent father, for his part, minimized respondent mother's conduct. It was clear that the family did not benefit from the

services offered by Families First and the Department of Human Services sought temporary jurisdiction over both Xander and Jacob.¹

Respondents claim that the trial court erred in terminating their parental rights pursuant to subsection 19b(3)(c)(i) where 182 days had not elapsed from the date of the issuance of an initial dispositional order to the date the petition to terminate parental rights was filed. We disagree. A dispositional review hearing was held on July 12, 2006. The order reflected that the trial court considered the initial services plan, the parent-agency agreement, and a report prepared by the worker. Although the trial court did not specifically order that respondents comply with a services plan, it was clear that respondents understood what was necessary for reunification and began the process. Both parents completed psychological evaluations and participated in their probation guidelines. Counseling with Jan Cilla was set up. Neither respondent objected to any of the requirements in the parent-agency agreement. For purposes of subsection 19b(3)(c)(i), then, 182 days elapsed since the issuance of an initial dispositional order to the time the petition to terminate parental rights was filed.

Respondents next argue that their due process rights were violated by the agency's failure to provide services to ensure reunification with the child. We disagree. Reasonable efforts were made to assist respondents in reuniting with Xander. Both were offered individual therapy and family therapy to address their mental health and substance abuse issues as well as their need to demonstrate emotional stability, proper anger management, and appropriate parenting skills. The caseworker explained that respondents had major hurdles to clear before parenting classes would be offered. Because respondents failed to make progress, no additional services were ordered.

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). Indeed, the record evidence provided more than adequate support for the trial court's conclusions.

Clear and convincing evidence supported the trial court's finding that respondents had not rectified the issues that brought Xander under the court's jurisdiction. Respondent mother failed to timely place herself on a waiting list for psychiatric services and even attempted suicide in August 2006. Respondent mother continued to exhibit the same behavior that caused the family to be brought to the court's attention, including blaming others for her own failures and lacking appropriate coping skills. She continued to be emotionally and financially unstable. Respondent mother called Jacob's foster mother and yelled at her for turning Jacob against her. Around that same time, Jacob's belongings were dumped at the foster home. Respondent mother also left a voicemail message on her sister's cell phone following her sister's testimony at trial. The message was very angry, irritable, and threatening. Respondent mother also wrote an inappropriate letter to Jacob in May 2007, wherein she scolds him for not calling her on Mother's Day, complains that she must pay for his time in foster care, and offers to sign off her parental rights. Respondents argue that the trial court improperly relied upon this evidence because it occurred after the termination petition was filed. However, these incidents

¹ Jacob turned 18 during these proceedings.

demonstrated that respondent mother failed to make any progress in her attempt to become emotionally stable.

As for respondent father, the evidence revealed that he was dependent on respondent mother and was more concerned with her needs than the needs of his child. He minimized respondent mother's behavior. After respondent mother's admitted suicide attempt, respondent father tried to tell the workers that respondent mother did not actually attempt suicide and that she was just adjusting to her medications. He simply did not understand the significance of his wife's emotional instability. Respondent father's energy went into taking care of respondent mother and there was no emotional availability for Xander. Workers were also concerned that respondent father continued to drink.

In addition to respondents' on-going problems with mental health, emotional stability, and substance abuse, they could not manage their financial resources. The evidence showed that respondents received a \$30,000 settlement from a lawsuit near the end of 2005 or the beginning of 2006. Yet their house went into foreclosure in September 2006. They did not make the DHS workers aware of the fact that they were in such a dire financial condition until it was too late for the agency to offer help. Respondent father had a sporadic work history, and respondent mother clearly had no intention of working. She told workers that no one would hire her because she did not have any teeth, yet she refused the agency's offer to help pay for dentures.

Respondents' continued failure to progress in the areas of mental health, emotional health, and substance abuse would have placed Xander at risk of harm in their care. These factors, as well as respondents' failure to properly manage their financial resources, indicated that respondents could not provide Xander with proper care or custody.

Having properly found statutory grounds for termination of respondents' parental rights established by clear and convincing evidence, the trial court was obligated to terminate respondents' 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). Again, the trial court did not err in concluding that termination was not clearly contrary to the child's best interest. Although workers testified that Xander clearly liked visiting with his father, there was no such bond with respondent mother. Respondent mother was "robot-like" with Xander. Xander did not react well to that and respondent mother was clearly frustrated by the rejection. Respondent father would look to respondent mother to take the lead. Again, he appeared more concerned with respondent mother than with the child. Additionally, Xander did not seem at all concerned when he had to leave respondents, an indication to workers that he was not particularly bonded to either parent. The evidence also showed that respondents failed to put Xander's needs ahead of their own. They tried cutting off contact with the maternal grandmother after she decided to press charges against respondent mother for the 2005 assault. Respondent father would "grill" Xander at visits to see whether he had any contact with the grandmother, putting Xander in the position of being a source of information between adults, which was not appropriate. Respondents failed to make progress in over a year and the child was entitled to permanence and stability.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Mark J. Cavanagh