

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ABIGAIL PATRICIA RENÉE
JACKMAN and KATHRYN LEE SATTLER,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JOHN PAUL SATTLER,

Respondent-Appellant,

and

ANGELA MARIE SATTLER,

Respondent.

UNPUBLISHED

May 13, 2008

No. 281509

Branch Circuit Court

Family Division

LC No. 06-003568-NA

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

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

Petitioner had worked with respondent-appellant and the children's mother since 2001 to address concerns of drug abuse, housing, and domestic violence. On November 17, 2006, petitioner filed a temporary custody petition. After a December 13, 2006, hair follicle test on respondent-appellant came back positive for cocaine, indicating daily use from 45 to 90 days preceding the test, petitioner filed a motion and order for rehearing and termination of parental rights. At the April 17, 2007, termination trial on this petition, the court concluded that, while the evidence supported the statutory grounds for termination of respondent-appellant's parental rights, termination was contrary to the children's best interests. The court informed respondent-appellant and the mother that it was giving them one more opportunity to show that they could care for the children, but admonished them that one positive drug test would be sufficient to terminate their parental rights. The court ordered respondent-appellant to submit to a substance abuse assessment and follow any recommendations, submit random drug screens, establish a stable home environment, obtain and maintain employment, and cooperate with petitioner.

On April 30, 2007, respondent-appellant submitted to a hair follicle test that came back positive for cocaine use. Respondent-appellant admitted that he had used cocaine after the April 17 hearing, but denied using any drugs since that time. Respondent-appellant submitted 11 drug screens between May and August 2007, all of which were negative. Respondent-appellant also submitted a hair follicle test in July, which came back negative. On August 16, 2007, petitioner filed a motion and order for rehearing and termination of parental rights on the basis of respondent-appellant's long-term drug use and the finding in his psychological examination that his overall prognosis was poor.

At trial on this petition, the caseworker testified that she was concerned about respondent-appellant's positive hair follicle test for cocaine in April, soon after the trial on the first termination petition, in light of respondent-appellant's history of relapsing into drug use. She was also concerned because he never acknowledged to her that he had a drug problem. The caseworker found respondent-appellant's housing to be suitable but was concerned that his housing was in jeopardy. Respondent-appellant's landlord testified that respondent-appellant was delinquent in his rental payments but that they had worked out a payment plan and respondent-appellant was not in danger of eviction. The caseworker was also concerned because she believed respondent-appellant was not employed. Respondent-appellant informed the court that he had recently been laid off because of a downturn in business due to the seasonal nature of his employment but expected to be back to work in a short time. The employer testified that, although respondent-appellant was laid off because of a lack of work, he did not inform respondent-appellant that he intended to rehire him.

Several experts also testified. Respondent-appellant's substance abuse therapist testified that she had recommended that respondent-appellant participate in substance abuse groups that also addressed mental health issues and that respondent-appellant consistently and actively participated in group sessions, which addressed relapse prevention. She testified that, although she could not guarantee that respondent-appellant would not relapse into drug use, she found that he had made some progress in addressing the issues that might lead to a relapse. On the other hand, the clinical psychologist who performed a substance abuse assessment of respondent-appellant found that he suffered from substance abuse dependence and believed, based on respondent-appellant's comments, that he was not benefiting from his substance abuse counseling and the AA meetings he claimed to be attending. The licensed psychologist who performed a psychological evaluation of respondent-appellant found that respondent-appellant was an individual who had low frustration tolerance and was vulnerable to becoming very self-absorbed and, because of these personality concerns, his prognosis for addressing his drug abuse was poor.

Evidence was also presented regarding the children's welfare. The psychologist who had evaluated Abigail found that she had suffered from neglect while in the care of her parents and, along with Abigail's counselor, found that the child needed a clear, structured environment to create a sense of permanence and security. The children's maternal grandfather, with whom the children resided, testified that, based on their history, respondent-appellant and the mother were unable to provide stability for the children.

Respondent-appellant admitted to the court that he had a substance abuse problem but assured the court that he was prepared to remain clean, recognizing the problem that his substance abuse caused his children. He also stated that he loved the children.

The foregoing evidence, showing that respondent-appellant used cocaine after the April 17, 2007, hearing, in which the court had decided not to terminate respondent-appellant's parental rights but forewarned him that a single positive drug test would show that he was incapable of caring for the children, establishes the statutory grounds for termination under §§19b(3)(c)(i), (g), and (j). MCR 3.977(G)(3); MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Drug use was a long-standing issue in the instant case. Respondent-appellant's cocaine use on this single occasion, despite all the negative drug test results in May, June and July, was especially troubling because of concerns of respondent-appellant's potential to relapse.

Further, the evidence did not show that termination of his parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children needed stability, which respondent-appellant, based on his history, was unable to provide. Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Pat M. Donofrio
/s/ David H. Sawyer
/s/ William B. Murphy