

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of ANDREW LOGAN, Minor.

---

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BENJAMIN LOGAN,

Respondent-Appellant.

---

UNPUBLISHED

July 15, 2008

No. 283064

Newaygo Circuit Court

Family Division

LC No. 07-007015-NA

Before: Murphy, P.J., and Bandstra and Beckering, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating his parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).<sup>1</sup> We affirm the termination of respondent's parental rights.

The trial court may terminate a parent's parental rights to a child if the court finds that the petitioner has proven one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights . . . , unless the court finds that termination of parental rights to the child is clearly not in the child's best interests." MCL 712A.19b(5); see also *Trejo*, *supra* at 350.

"The clearly erroneous standard shall be used in reviewing the court's findings on appeal from an order terminating parental rights." MCR 3.977(J). The review for clear error applies to both the trial court's decision that a ground for termination of parental rights was proven by clear

---

<sup>1</sup> Although the trial court did not expressly identify the grounds for termination in its ruling, it is abundantly evident that the court based termination on the grounds cited in the petition and most definitely on MCL 712A.19b(3)(g). Indeed, respondent proceeds on the basis that termination was ordered pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Moreover, respondent, while challenging the court's substantive decision, does not argue that the court failed to identify the grounds for termination, failed to make sufficient factual findings, or failed to render sufficient legal conclusions.

and convincing evidence and the court's ruling regarding the child's best interests. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). The trial court's determination to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake had been made on consideration of all the evidence. *Id.* at 209-210.

We conclude that the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(g). MCL 712A.19b(3)(g) provides for termination when "[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."

The trial court, after first noting that the child had been in foster care for nearly a year, found that respondent had no means of supporting himself, feeding himself, clothing himself, and housing himself. The court stated that it went beyond respondent, 31 years old at the time, not having a job, he was incapable of taking care of himself. The trial court continued:

He has not in this last year offered in any way to support this child, he has not contributed one thing towards the child's support or welfare. No evidence he even provided a toy. Ten – about nine to ten different services have been availed to him, but again, you can lead a horse to water, but you can't make the horse drink, and obviously the horse hasn't, in this particular case, been able to absorb any of the effort that has been made by the offering of these services.

While respondent only saw the child during periods of supervised visitation, the evidence shows that respondent did not spend much time actually interacting with the child during these visits. After 15 minutes, respondent's interest in the child generally waned. One foster care worker stated that "it was almost as if [respondent] became bored with the visits." The worker opined that respondent was not able to meet the child's physical and emotional needs. Respondent had to be prompted regularly to even check the child's diaper. Respondent missed some visits altogether, and he was late for a quarter of them. Respondent was informed that he needed to call if he was going to be late; however, he failed to do so, claiming that he intended to call but then coming up with one excuse or another for not calling. Although respondent completed parenting classes, there was evidence that he failed to demonstrate any benefit from the classes during visitation. There was testimony that respondent never demonstrated any progress with regard to his parenting skills and that he was overwhelmed by the situation and caring for the young child.

There was evidence that respondent was originally and remained unemployed, except for a brief one-month stint, he did not appear motivated to obtain employment, he did not have suitable housing, his parents' home, where respondent generally resided, was not appropriate for a child, he talked about going to school but never acted on it, and that he missed numerous appointments for counseling and therapy services and made little if any progress when he attended. Further, there was evidence that on several occasions he failed or refused to produce a sample for purposes of random drug screens and failed to even appear for a couple of the

scheduled screenings,<sup>2</sup> he made little effort and progress with respect to the case service plan, and that he had a troubling criminal history. In sum, consistent with the opinion of a counselor and the trial court, there was evidence that respondent was unable to take care of himself, let alone a one-year-old child.

We conclude that there was no clear error relative to there existing clear and convincing evidence that respondent, without regard to intent, failed to provide proper care or custody for the child and that there is no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time considering the child's age. MCL 712A.19b(3)(g). And there is no basis to conclude that termination of respondent's parental rights to the child is clearly not in the child's best interests. MCL 712A.19b(5). Because only one ground in support of termination is sufficient, it is unnecessary for us to consider MCL 712A.19b(3)(c)(i) and (j). Finally, we reject respondent's argument that petitioner failed to establish probable cause to initially sustain the petition. This argument finds no support in the record and respondent pled no contest to the amended petition in the adjudicative phase of the proceedings.

Affirmed.

/s/ William B. Murphy  
/s/ Richard A. Bandstra  
/s/ Jane M. Beckering

---

<sup>2</sup> Refusals are deemed to be a positive test according to the testimony presented.