

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of STEELE ALEXANDER
SCHOWALTER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DANIEL WILLIAM SCHOWALTER,

Respondent-Appellant.

UNPUBLISHED

August 21, 2008

No. 284403

Kalamazoo Circuit Court

Family Division

LC No. 06-000331-NA

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Respondent appeals by right the family court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g) and (j). We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

To terminate parental rights, the family court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). If a statutory ground for termination is established, the family court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). The family court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo, supra* at 356-357. Regard is to be given to the family court's special opportunity to assess the credibility of the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

There was clear and convincing evidence to establish the ground for termination contained in MCL 712A.19b(3)(c)(i). At the time of adjudication, respondent demonstrated poor parenting skills, was without proper housing, had been using cocaine, and was limiting his work opportunities in an effort to bolster his application for social security disability benefits. By the time of a later custody hearing, respondent had failed to participate in parenting classes and had not made his housing available for the caseworker's assessment. Respondent had also failed to seek drug treatment, participate in Narcotics Anonymous, or submit drug screens to demonstrate that he had stopped using cocaine. Respondent was ultimately denied social security disability benefits and never provided employment verification to the caseworker. We perceive no clear

error in the family court's determination that MCL 712A.19b(3)(c)(i) had been established by clear and convincing evidence.

Nor did the family court clearly err by finding that the statutory ground for termination contained in MCL 712A.19b(3)(g) had been established in this case. There was no evidence that respondent had suitable housing, employment, or a source of stable income. Respondent's psychological evaluation revealed a substantial risk that problems related to neglect would continue, and confirmed that respondent was currently unable to provide proper care and custody for the minor child. Further, respondent's failure to comply with his treatment plan was evidence of his failure to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). We conclude that the statutory ground for termination contained in MCL 712A.19b(3)(g) was proven by clear and convincing evidence.

Lastly, the family court did not clearly err by determining that the statutory ground for termination contained in MCL 712A.19b(3)(j) had been sufficiently established. There was no evidence that the minor child could safely be returned to respondent's care because the conditions that led to the initial adjudication continued to exist and would have exposed the child to a risk of harm. Specifically, respondent never sought treatment or addressed his substance abuse problems and psychological issues. The statutory ground for termination contained in MCL 712A.19b(3)(j) was proven by clear and convincing evidence in this case.¹

For these same reasons, we conclude that termination was not clearly contrary to the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 354.

Respondent argues that he misunderstood the court's expectations of him and did not realize that he was expected to immediately begin participating in his treatment plan. He delayed obtaining a psychological assessment for a substantial period of time due to his mistrust of psychologists, and delayed obtaining a drug assessment for several months as well. However, rather than relieving respondent of his parental obligations, these delays and alleged misunderstandings revealed that respondent did not prioritize reunification with his child. Ultimately, respondent's actions and inactions revealed his lack of commitment to the minor child at issue in this case.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly

¹ Because the family court properly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j), we need not address whether there was sufficient evidence to establish the statutory ground for termination contained in MCL 712A.19b(3)(c)(ii). *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).