

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHANTI MOORE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHAWN PIERRE MOORE,

Respondent-Appellant,

and

DIONA PITCHFORD,

Respondent.

UNPUBLISHED

August 26, 2008

No. 280552

Jackson Circuit Court

Family Division

LC No. 06-005643-NA

Before: Schuette, P.J., and Zahra and Owens, JJ.

MEMORANDUM.

Respondent Shawn Pierre Moore appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g), (h), and (j). We affirm. We decide this appeal without oral argument under MCR 7.214(E).

Respondent does not argue on appeal that the statutory grounds for termination of his parental rights were not established by clear and convincing evidence but asserts that terminating his parental rights, instead of placing the minor child with her paternal grandmother while he was incarcerated, was clearly contrary to the child's best interests. Once statutory grounds for termination were established by clear and convincing evidence, the trial court was mandated to terminate respondent's parental rights unless termination was clearly contrary to the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000).

The evidence showed that the paternal grandmother's home was suitable for one child and that she was a loving, nurturing person. However, despite respondent's two prior child abuse convictions and episodes of domestic violence, the paternal grandmother denied his capacity for abusive behavior. Respondent was incarcerated for home invasion, with an earliest release date in April 2010, and the paternal grandmother indicated she would allow respondent to

reside with her following his release. The evidence also showed the paternal grandmother had not contacted, visited, or sought custody of the minor child during the three years the child had suffered her parents' abuse and neglect, or when respondent became incarcerated in 2005. In addition, the trial court noted that the paternal grandmother was offered the opportunity for an extended visit with the child to acclimate the child to her home in Illinois, but she did not avail herself of that opportunity.

The minor child was progressing physically, emotionally, and educationally in foster care, but she would not enjoy a permanent home with the foster family because they did not desire to adopt her. Placement with the paternal grandmother would also not offer permanence because respondent nominated his mother for the child's custody only while he was incarcerated, after which the child would be exposed once again to his abusive and neglectful behavior. Although permanence was not imminent for the minor child, the trial court did not err in determining upon all evidence presented that termination of respondent's parental rights to allow the prospect of permanent adoption in a safe home was not clearly contrary to the minor child's best interests.

Affirmed.

/s/ Bill Schuette

/s/ Brian K. Zahra

/s/ Donald S. Owens