

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BJ JOHNNY JOHNSON, Minor.

DEPARTMENT OF HUMAN SERVICES,
Petitioner-Appellee,

v

DAVID JOHNSON,

Respondent-Appellant,
and

CARLA YVETTE BRUCE-JOHNSON.

Respondent.

UNPUBLISHED
May 5, 2009

No. 287867
Wayne Circuit Court
Family Division
LC No. 91-295535-NA

Before: Borrello, P.J., and Murphy and M.J. Kelly, JJ.

MEMORANDUM.

Respondent father appeals as of right the order terminating his parental rights to his minor child under MCL 712A.19b(3)(g), (i), and (j). We affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). In the present case, the trial court's decision was based primarily on the mother's behavior, specifically the way she parented other children who were removed from her care, her prenatal drug use, and her long history of substance abuse and relapses after treatment. However, respondent father had an independent duty to protect his children. See *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002). This was not the first child he had with this mother. He voluntarily released his rights to the first child after failing to comply with a treatment plan. Further, respondent father clearly expressed his intent in the present proceedings to support and remain with the mother; therefore, returning the child to his care would return the child to the mother's care as well. Respondent father demonstrated that he would continue supporting the mother no matter how many times she relapsed and harmed their unborn children. Therefore, he was unlikely to be able and willing to protect their baby from the risks of a drug-addicted mother.

The trial court did not err when it found clear and convincing evidence to terminate respondent father's parental rights under MCL 712A.19b(3)(g) and (j). The child was

reasonably likely to be harmed if placed in his parents' care, respondent father was not reasonably likely to provide proper care and custody in a reasonable time for the same reason, and he failed to provide proper care and custody because this was his second child with a drug-addicted mother. Because clear and convincing evidence established these two statutory grounds, we need not address whether the trial court erred when it relied on MCL 712A.19b(3)(i). *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998). However, we note that the trial court could also have found sufficient evidence under MCL 712A.19b(3)(m) based solely on the prior voluntarily termination.

Under the amended version of MCL 712A.19b(5), the trial court was required to find that termination was in the child's best interests before terminating respondent father's parental rights. The child needed permanence and a safe home and never had an opportunity to bond with his biological parents. Respondent father chose to stand by the mother, despite her repeated cocaine use, and it was unknown whether she would ever stop using permanently, because she had relapsed after treatment several times before. The trial court did not err when it held that termination of both respondents' parental rights was in the child's best interests.

Affirmed.

/s/ Stephen L. Borrello
/s/ William B. Murphy
/s/ Michael J. Kelly