

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AZINEE TAINA RIOS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RICARDO RIOS,

Respondent-Appellant.

UNPUBLISHED

June 16, 2009

No. 287170

Oakland Circuit Court

Family Division

LC No. 05-715461-NA

Before: Jansen, P.J., and Hoekstra and Markey, JJ.

PER CURIAM

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

On appeal from termination of parental rights proceedings, we review the circuit court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). To terminate parental rights, the circuit court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). A parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003); *In re Trejo*, 462 Mich 341, 360-363; 612 NW2d 407 (2000).

At the time of adjudication, respondent had not sought custody of his child although he knew the child was in a precarious situation. He had no income or employment and was in child support arrearage of over \$5,000. At the time of termination, respondent had never appeared in court, had failed to address his bench warrant for a probation violation, and had provided no evidence of employment, income, or housing. He had not complied with the parent-agency agreement. There was accordingly clear and convincing evidence to support termination under MCL 712A.19b(3)(c)(i). Respondent never attempted to provide proper care or custody for his child. His failures to take care of the bench warrant and clear up his criminal problems, as well as to comply with the requirements of the parent-agency agreement, were evidence that he had no serious interest in the care or custody of his child. See *In re JK*, *supra* at 214. There was clearly no reasonable likelihood that respondent would be able to provide proper care or custody

within a reasonable time. MCL 712A.19b(3)(g). In addition, respondent's noncompliance and history of child endangerment demonstrated a reasonable likelihood that the child would be harmed if she were placed in his care. MCL 712A.19b(3)(j). The circuit court did not clearly err by finding that the statutory grounds for termination were proven by clear and convincing evidence.

Nor did the circuit court clearly err in its best-interests determination. MCL 712A.19b(5). Respondent had not visited with the child for more than a year because of his failure to resolve his bench warrant issues. There was no evidence that any bond that might have existed with respondent at one time still existed at the time of termination. Had respondent truly wanted to maintain contact with his child, he would have taken the necessary steps to clear up his criminal problems, comply with the requirements of the parent-agency agreement, maintain contact with the agency, and appear in court. His lack of commitment and involvement throughout the lower court proceedings established that termination was in the child's best interests.

Finally, respondent contends that the circuit court violated MCR 3.973(E)(3) when it adopted the parent-agency agreement at a dispositional hearing because there was no counsel present to protect respondent's interest or to object to the requirements of the case service plan. We disagree. Under MCR 3.973(E)(3), a parent-agency agreement is not a "written report" that the parties must be "given an opportunity to examine and controvert"; nor must the parties be "allowed to cross-examine individuals" that made such an agreement. See MCR 3.973(E)(4) (describing "case service plans" as separate and distinct from "[w]ritten reports"). Further, at a dispositional hearing, the court may proceed in the absence of the parties provided that proper notice has been given. MCR 3.973(D)(3). Lastly, under MCR 3.973(F)(2), the court has the authority to adopt a parent-agency agreement and to enter any necessary orders that it considers to be in the child's best interests. Having reviewed the applicable court rules and case law, we perceive no error on this issue.

Affirmed.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Jane E. Markey