

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CALEB TRUMAN and CHLOE
TRUMAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DANIEL HERBERT TRUMAN,

Respondent-Appellant,

and

ALSAYCE DELACRUZ,

Respondent.

UNPUBLISHED

July 14, 2009

No. 289442

Emmet Circuit Court

Family Division

LC No. 07-005508-NA

Before: Meter, P.J., and Murray and Beckering, JJ.

PER CURIAM.

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

This Court reviews for clear error the trial court's determination that the petitioner established at least one statutory ground for termination by clear and convincing evidence. MCR 3.977(J); *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000). This Court should affirm the trial court's decision if it finds clear and convincing evidence of any statutory ground, regardless whether the trial court erred in finding sufficient evidence under other statutory grounds. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998), overruled in part on other grounds, *In re Trejo Minors*, *supra* at 353.

In the present case, there was clear and convincing evidence that respondent failed to rectify the conditions leading to adjudication and was not reasonably likely to within a reasonable time. MCL 712A.19b(3)(c)(i). The conditions that led to adjudication regarding respondent were his incarceration after absconding from parole on substance abuse charges, his lack of stable housing, and the personality traits that contributed to his criminal and substance abuse history. At the time of termination, respondent was incarcerated on a new substance abuse

charge and would not be released until at least October 2009. Before his incarceration, he failed to demonstrate that he was substance-free by consistently submitting alcohol and drug screens, he lacked stable housing, and he failed to complete parenting classes and individual counseling and re-engage in substance abuse treatment after relapsing. This evidence was more than sufficient for the trial court to conclude that clear and convincing evidence existed showing that termination was proper under MCL 712A.19b(3)(c)(i).¹

The same evidence supported the trial court's finding that respondent was unable to provide proper care and custody and was not reasonably likely to within a reasonable time, MCL 712A.19b(3)(g), and that, based on respondent's conduct or capacity, there was a reasonable likelihood of harm to the children if they were placed in respondent's care, MCL 712A.19b(3)(j). There was evidence that respondent understood how to interact appropriately with his children, and he did so during supervised visits. However, his failure to abstain from illegal substances, his inability to stay out of prison, and to fully engage in services and screens indicated an inability to place his children's needs first. Providing proper care and custody requires more than the ability to act appropriately during visits. Respondent needed to be substance-free to provide non-judgment impaired parenting and a safe, stable home. Respondent was unable to provide any home until he was released from prison, and he then needed to obtain appropriate housing and employment and demonstrate sobriety. Respondent's behavior before incarceration suggested it was unlikely he could maintain sobriety outside prison.

Although respondent argues that there was no evidence his actions directly harmed the children physically or that he placed them in dangerous situations, these proceedings began because their mother placed them in a dangerous situation involving her own substance abuse while respondent had absconded from parole. This was evidence that respondent's criminality prevented him from keeping his children safe. In this vein, it is important to recall that each parent has an independent duty to ensure his children are safe even in the other parent's care, see *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002), and living a substance free, conviction free life while also providing the necessities of life for the children are fundamental parts to this duty. Based on the facts found by the trial court, respondent did not fulfill this duty. Further, respondent's failure to put his children's needs first during these proceedings supported the psychological diagnosis of personality traits that would likely lead to neglect.

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). The attachment the children demonstrated during visits and the affection respondent expressed toward them was evidence in respondent's favor. However, the children's need for permanence was also relevant. See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). The court must consider how long the children could wait for the parent to rectify the conditions, which requires consideration of the children's ages and particular needs. *In re Dahms*, 187 Mich App 644, 647-648; 468 NW2d 315

¹ Respondent argues that the trial court failed to consider his relationship with his children, but does not explain how that is directly relevant to MCL 712A.19b(3)(c)(i). If respondent's positive interactions were evidence that he was committed to rectifying his substance abuse for his children's sake, this was outweighed by respondent's other actions.

(1991). The child's therapist testified that these children in particular needed stability and could not handle more caregiver changes. Although respondent claimed that his commitment to the children never wavered, respondent did not make the consistent effort that the children required.

Affirmed.

/s/ Patrick M. Meter

/s/ Christopher M. Murray

/s/ Jane M. Beckering