

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAZMYNE TONYA ROBINSON
and MICHAEL EDWARD CARD III, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DEMETRIUS EARL ROBINSON,

Respondent-Appellant,

and

JULIA MARIE ROBINSON and MICHAEL
EDWARD CARD II,

Respondents.

In the Matter of JAZMYNE TONYA ROBINSON
and MICHAEL EDWARD CARD III, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

V

JULIA MARIE ROBINSON,

Respondent-Appellant,

and

DEMETRIUS EARL ROBINSON and MICHAEL
EDWARD CARD II,

UNPUBLISHED
December 17, 2009

No. 290890
Macomb Circuit Court
Family Division
LC No. 2008-000510-NA
LC No. 2008-000511-NA

No. 290891
Macomb Circuit Court
Family Division
LC No. 2008-000510-NA
LC No. 2008-000511-NA

Respondents.

Before: Servitto, P.J., and Fort Hood and Stephens, JJ.

PER CURIAM.

In these consolidated appeals, respondent Demetrius Robinson appeals by right from the trial court order terminating his parental rights to Jazmyne Robinson, and respondent Julia Robinson appeals by right from the trial court order terminating her parental rights to both of the minor children. Because the grounds for termination were proved by clear and convincing evidence, and termination is in the children's best interests, we affirm.

Termination of parental rights is appropriate where the petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once this has occurred, the trial court must terminate parental rights unless it finds that the termination is clearly not in the best interests of the child. *Id.* at 364-365. We review both the trial court's decision that a ground for termination of parental rights has been proven by clear and convincing evidence and the trial court's decision regarding the child's best interests for clear error. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003).

The trial court terminated the respondents' parental rights pursuant to MCL 712A.19b(3)(a)(ii), (3)(g), and (3)(j). MCL 712A.19b(3)(a)(ii) provides that parental rights may be terminated if the trial court finds, by clear and convincing evidence that:

(a) The child has been deserted under any of the following circumstances:

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

Here, the evidence established that respondents deserted the children for 91 days or more and failed to seek custody during that time. The record indicates that respondents visited the children for the last time on September 22, 2008, and then failed to contact them in any way for the next five months. Respondents additionally failed to contact either the DHS or their attorneys during that time, and were thought to have moved to another state. Based upon the above, the trial court did not clearly err in finding that the statutory ground for termination under MCL 712A.19b(3)(a)(ii) was established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, *supra*.

Although only one ground for termination need be established, the evidence also established that respondents were unable to provide proper care and custody for the children even before abandoning them, and that there was no reasonable expectation that they would be able to do so within a reasonable time. In addition to experiencing respondent-father's domestic violence against their mother and threats to their own physical safety, the children were left with

relatives without adequate preparations and with no way to contact their parents in case of an emergency. Evidence established that respondent-mother intended to stay with her abusive husband in Chicago, and that the domestic violence was still occurring. The trial court did not clearly err in terminating respondents' parental rights to the children pursuant to MCL 712A.19b(3)(g) and (j).

Further, the evidence established that termination of respondents' parental rights was in the children's best interests. MCL 712A.19b(5). Testimony established that the children feared respondent-father, and for good reason: they witnessed him beating their mother, he pinched them as they slept, he threatened to beat Michael, he hit Michael, and once he held a knife to Michael's throat. Although the children loved their mother, other testimony demonstrated that she was unwilling or unable to provide for their basic needs, such as the need to be safe, and feel safe, in their home. Testimony established that the children had obtained stability and permanency in their temporary placement, and they had been referred for counseling, which assisted them in adapting to termination of respondents' parental rights. Thus, the trial court did not clearly err in holding that termination of respondents' parental rights to the children was in the children's best interests.

Finally, the trial court did not violate Mr. Robinson's procedural due process rights to notice or to an attorney. Mr. Robinson received more process than that to which he was due under the court rules, and the process was fundamentally fair.

The trial court determined at the preliminary hearing that Mr. Robinson was not the legal father of either minor child. Mr. Robinson received the notice required for putative fathers under MCR 3.921(D)(1), particularly for the first two hearings. His attendance indicates that he had actual notice of the preliminary hearing, and he received personal service of the pretrial hearing. By failing to appear at the pre-trial hearing, however, Mr. Robinson waived all right to further notice. MCR 3.921(D)(3)(a). Finally, the trial court provided Mr. Robinson with an attorney, but Mr. Robinson failed to maintain an ongoing attorney-client relationship with his attorney, which would have operated as a waiver or relinquishment of the right to counsel. *In re Hall*, 188 Mich App 217, 222; 469 NW2d 56 (1991).

Mr. Robinson had actual knowledge that his parental rights were at stake from the beginning of the proceedings, yet chose not to participate in the process in any way after the preliminary hearing. Because there was nothing fundamentally unfair in the process afforded Mr. Robinson in the trial court, his due process rights were not violated.

Affirmed.

/s/ Deborah A. Servitto
/s/ Karen M. Fort Hood
/s/ Cynthia Diane Stephens