

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MATTHEW ANTHONY
PHILLIPS, JR., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MATTHEW PHILLIPS, SR.,

Respondent-Appellant,

and

APRIL SILLS,

Respondent.

UNPUBLISHED

April 6, 2010

No. 293130

St. Clair Circuit Court

Family Division

LC No. 06-000593-NA

Before: WILDER, P.J., and O'CONNELL and TALBOT, JJ.

PER CURIAM.

Respondent Matthew Phillips, Sr., appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i) and (c)(ii) were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The principal conditions that led to adjudication, with regard to respondent, were that he was incarcerated, lacked parenting skills, and was a substance abuser, and most of his support system (his family) had also been in jail or prison. Several of the conditions that led to adjudication in December 2006 with regard to respondent no longer existed at the time of the July 2009 termination trial. However, the evidence established that respondent's substance abuse continued to exist at the time of the termination trial. While on probation for breaking and entering, respondent tested positive for drugs many times, he did not complete substance abuse treatment, and he was facing a charge of possession of marijuana at the time of the trial. Thus, the trial court did not clearly err in finding that there was clear and convincing evidence that this condition of adjudication continued to exist.

The trial court also did not clearly err in finding that respondent failed to provide proper care and custody to the minor child and that it was reasonably likely that the child would be harmed if returned to respondent's home. The evidence established that respondent repeatedly tested positive for drug use, despite the order that he refrain from substance abuse/alcohol abuse and/or socializing in any home or establishment where drugs or alcohol were being used. In addition, respondent had a possession of marijuana charge pending against him during the termination of parental rights proceeding. Respondent's contention that he was attending drug counseling was disputed by testimony of a foster care worker. In addition, while his parole had not been revoked, his time with an electronic tether had been extended, and further drug testing had been ordered. Moreover, while he was not arrested during an alleged domestic violence incident, respondent acknowledged being involved in a physical altercation while the child was present in the home. Under these circumstances, we are not left with a definite and firm conviction that the trial court's conclusion, that it was reasonably likely that the child would be harmed if returned to respondent's home, was a mistake.

Respondent fails to assert in his issues presented that the trial court's order terminating his parental rights is not in the best interest of the child. Therefore, this issue is deemed abandoned. *Mettler Walloon, LLC v Melrose Twp*, 281 Mich App 184, 221; 761 NW2d 293 (2008). Nevertheless, respondent claims in the body of his brief that the termination of his parental rights is not in the child's best interests. On our review of the record, we are not left with a firm and definite conviction that the trial court made a mistake when it concluded that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Peter D. O'Connell
/s/ Michael J. Talbot