

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRIANNA DASHANNA
ALLEN, KAIONN MONIQUE ALLEN, CHINA
MARIE ALLEN, and GABRIELLA RENAE
ALLEN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ROBERT ALLEN,

Respondent-Appellant,

and

RHASHONDA MONIQUE REYNOLDS,

Respondent.

UNPUBLISHED
April 27, 2010

No. 293240
Kent Circuit Court
Family Division
LC Nos. 08-051363-NA
08-051365-NA
08-051366-NA
08-051368-NA

Before: SERVITTO, P.J., and FITZGERALD and BECKERING, JJ.

PER CURIAM.

Respondent Robert Allen appeals by right from an order that terminated his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). Specifically, respondent addresses the trial court's best interests determination. We affirm.

Although respondent only challenges the trial court's finding that termination was in the children's best interests, we believe it is important to address some of the evidence that the trial court heard in reaching its conclusion that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). When the children were removed from the care of their cognitively impaired mother in April 2008, respondent was in prison. He was released in August 2008. Following his release, respondent expressed a desire to work on his parent-agency agreement and to be reunited with his children. Because of his criminal history, the caseworker wanted

evidence that respondent was in recovery from his substance abuse problem. She wanted him to have two clean drug screens before re-instituting visits with the children. It took months for respondent to earn that privilege, having tested positive on every other drug screen until January 2009. Once visits began, it was undisputed that respondent was a positive and vital presence at the visits, helping to stabilize a chaotic situation. The children had a genuine affection for him and would go to him easily. Respondent was loving and appropriate. He missed only one visit from January 2009 until his unannounced move to Tennessee in May 2009.

However, the only positive evidence in respondent's favor related to the visits and to his completion of parenting classes. He did nothing to comply with the aspects of his PAA related to his emotional stability or substance abuse issues. Respondent presented himself for a substance abuse intake appointment at Arbor Circle on December 1, 2008. He did not present with any mental health issues. However, respondent was advised to attend individual counseling to better understand the reason for the children's removal and his past criminal behavior. He failed to do so, even after several reminders that it was part of his PAA. Similarly, respondent told the intake worker that he did not need substance abuse treatment. As a result of his statement, respondent was turned away from the treatment center. Contrary to respondent's contention, substance abuse was a barrier to reunification. Respondent had a prior conviction related to the sale of cocaine. He also tested positive throughout the pendency of the case for controlled substances. Respondent was offered 20 drug screens, six of which were positive. Eight were not completed and were deemed positive. Respondent's last drug screen before his move to Tennessee was positive for both marijuana and cocaine.

Respondent also failed to obtain income or housing. Both parents moved to Memphis, Tennessee, just weeks before the scheduled termination hearing, and without notification to the court. Caseworkers had no way of knowing whether respondent had adequate housing or income in Tennessee. Respondent voluntarily moved himself away from the children. The evidence indicated that the conditions leading to adjudication continued to exist and that respondent was without the means to provide the children with proper care or custody.

Having found the foregoing statutory subsections proved by clear and convincing evidence, the trial court then had to determine whether termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). It was clear from the record that respondent interacted positively with the children and that the children loved respondent. He was always appropriate with them and managed to keep the visits less chaotic than they were with the mother. The worker believed that respondent would have worked well with the cognitively impaired mother. Unfortunately, however, respondent did nothing to progress toward reunification. He tested positive for marijuana and cocaine on his last screen and did nothing to address his substance abuse issues. The workers testified that they would like to see a period of nine to twelve months of sobriety before believing that respondent had the requisite stability to be reunified with the children. Instead of actively participating in services, however, respondent moved out of state. The children had already been in foster care for 14 months. Asking them to wait another nine months, or more, would have been unreasonable, considering the children's young ages. They were entitled to permanence and stability. The trial court's best interests determination was not in error.

Affirmed.

/s/ Deborah A. Servitto
/s/ E. Thomas Fitzgerald
/s/ Jane M. Beckering