

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 21, 2010

In the Matter of N. G. MULLINS, Minor.

No. 297771
Wayne Circuit Court
Family Division
LC No. 06-458062

Before: DONOFRIO, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to his minor child under MCL 712A.19b(3)(a)(ii) (abandonment), (b)(ii) (failure to prevent injury and future injury likely), (c)(i) (conditions leading to adjudication continue to exist), (g) (failure and inability to provide proper care and custody), (g) (failure and inability to provide proper care and custody), (h) (incarceration for two years and child deprived of normal home), (j) (child likely harmed if returned), and (k)(i) (abandonment of a young child). Because petitioner established at least one statutory basis to terminate parental rights by clear and convincing evidence, we affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). We review the trial court's findings for clear error. MCR 3.977(K). And the trial court's decision should not be reversed if there was sufficient evidence under any statutory ground, regardless whether the court erred in finding sufficient evidence under other grounds. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998) overruled in part on other grounds *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000)..

After reviewing the record, we may question the trial court's determinations as they relate to MCL 712A.19b(3)(a)(ii), (b)(ii), (j), and (k)(i), in light of the recently decided, *In re Mason*, 486 Mich 142 ; 782 NW2d 747 (2010), where the Court found clear error when the petitioner and the lower court did not analyze the incarcerated respondent's ability to parent after his release, his rights were terminated primarily because he failed to comply with services not available to him in prison, and the children could live with his relatives until his release. But our analysis necessarily focuses on MCL 712A.19b(3)(c)(i), (conditions leading to adjudication continue to exist), and (g) (failure and inability to provide proper care and custody).

The present case is distinguishable from *In re Mason* because respondent was on parole at the initiation of these proceedings. Instead of taking advantage of the opportunity to visit his child and work toward reunification, he committed another crime and was re-incarcerated, all the

while knowing the mother could not care for their child and that his parental rights were at stake. Respondent had previously violated parole and was re-incarcerated while the mother—who had lost custody of other children—was pregnant with this child. Further, respondent admitted he owed about \$20,000 in child support for another child born in 1993, spent most of that child's life in and out of prison, and was uncertain whether he saw her when he was out of prison from February 2008 to summer 2008. The way a parent treated one child is probative of how he will treat another child. *In re AH*, 245 Mich App 77, 84-85; 627 NW2d 33 (2001). Respondent also did not provide a relative willing to care for this child until his release.

Our review of the record reveals that the trial court did not clearly err when it found clear and convincing evidence that the conditions leading to adjudication continued to exist and were not likely to be rectified in a reasonable time, MCL 712A.19b(3)(c)(i), and respondent failed to provide proper care and custody and was not likely to within a reasonable time, MCL 712A.19b(3)(g).

Respondent does not challenge on appeal the trial court's finding that termination was in the child's best interests.

Affirmed.

/s/ Pat M. Donofrio
/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald