

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 24, 2012

In the Matter of C. J. LOWREY, Minor.

No. 306609
St. Joseph Circuit Court
Family Division
LC No. 2009-000998-NA

Before: SHAPIRO, P.J., and HOEKSTRA and WHITBECK, JJ.

PER CURIAM.

Respondent-father¹ appeals as of right the order terminating his parental rights to the minor child under MCL 712.19b(3)(g) and (j).² We affirm because respondent failed to make progress with his substance abuse, anger management, and other issues despite being offered numerous services over 22 months by both the Michigan Department of Human Services and Indiana Department of Child Services.

The trial court did not clearly err in finding that petitioner established statutory grounds for termination by clear and convincing evidence. MCR 3.977(J); *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). Respondent had never cared for the minor child, he persisted to live with the child's mother even though he knew that such living arrangements had been deemed inappropriate for the minor child, and he had no plan to obtain suitable housing as required by his permanency plan and the trial court's dispositional orders. Moreover, although his permanency plan and the trial court's dispositional orders required him to obtain employment and means of transportation, respondent remained unemployed and without a driver's license for the entire duration of this case, which was approximately 22 months, and depended on his mother for housing and other necessities. Accordingly, we find that the trial court did not clearly err by finding clear and convincing evidence that respondent failed "to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide

¹ The minor child's mother is not involved in this appeal, so all further references to respondent refer to the father only.

² These provisions concern failure to provide proper care or custody (MCL 712.19b(3)(g) and reasonable likelihood that the child will be harmed if returned to the parent. MCL 712.19b(3)(j).

proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g); *In re Trejo Minors*, 462 Mich 341, 362-363; 612 NW2d 407 (2000).

Having found that the trial court did not clearly err in terminating respondent's parental rights to the minor child under MCL 712A.19b(3)(g), we need not consider the additional ground upon which the trial court based its decision, i.e., MCL 712A.19b(3)(j). *In re Trejo*, 462 Mich at 360; *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Regardless, because respondent had no safe living arrangement and failed to adequately address his anger issues, we find the trial court did not clearly err in terminating his parental rights under MCL 712A.19b(3)(j).

Further, evidence established that termination of respondent's parental rights was in the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 354. The evidence established that the minor child needed permanency and was thriving with his foster parents who intended to adopt him. Respondent was not in a position to provide proper care where he had no adequate housing, income or transportation. He also failed to adequately address his anger management problems. The minor child had spent his entire life out of respondent's care. Accordingly, we find that the trial court did not clearly err by concluding that termination of respondent's parental rights was in the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 354.

Finally, we find that the trial court did not clearly err by finding that petitioner had made reasonable efforts to reunify respondent with the minor child. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). Respondent argues that because petitioner did not refer him to anger management services until February 2011, and only after he requested such services, the trial court clearly erred by finding that petitioner made reasonable efforts to reunify the family. Although the testimony of respondent's case manager indicated that petitioner waited approximately one year to refer respondent to anger management services, the record indicated that this delay was not the cause of his inability to resolve his anger management issues or to reunite with the minor child. The record indicated that respondent failed to complete his anger management services once petitioner made such a referral approximately seven months before termination. This was consistent with his failure to complete any of the referred services throughout this case.

Moreover, the record indicated that the Indiana Department of Child Services referred respondent to anger management services in his companion Indiana case³ as early as 2009, but ultimately terminated these services because of respondent's failure to participate. In sum, the record before this Court indicates that respondent failed to complete any of his referred services, including anger management classes, in this case. Thus, we find that respondent's failure to adequately address his anger management issues was not attributable to petitioner's failure to refer him to such services until February 2011. Further, petitioner provided respondent with ample service referrals, including psychological evaluations, drug screens, drug treatment

³ Respondent's Indiana case involved only his three older children, none of whom were subjected to the underlying Michigan case which is now on appeal before this Court.

classes, parenting classes, and anger management classes. Accordingly, we find that find that the trial court did not clearly err by finding that reasonable efforts were made to preserve and reunify the family and, thus, no relief is warranted. *In re Fried*, 266 Mich App at 542-543.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Joel P. Hoekstra
/s/ William C. Whitbeck