

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 27, 2012

In the Matter of DALDINE, Minors.

No. 308677
Oakland Circuit Court
Family Division
LC No. 10-772927-NA

Before: MURPHY, C.J., and MARKEY and WHITBECK, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(g) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds were proven by clear and convincing evidence. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent contends that the trial court clearly erred when it terminated his parental rights because the court should have ordered more services and provided respondent with more time to demonstrate that he could benefit from them. We disagree. There had never been an allegation against respondent concerning homelessness, joblessness, or substance abuse, and there was no indication that he needed services to remedy those situations. Respondent lost his parental rights because, following the termination of the parental rights of the children's mother largely because of her substance abuse, he permitted her to be with the children unsupervised, which placed the children at risk of harm. Parenting classes and the two prior removals of the children from his custody should have been sufficient to impress upon respondent the seriousness of the risk of harm to the children when left in the care of their mother and the likelihood of the loss of his own parental rights to these children if he continued to disobey the court's orders. The record shows that, despite proof, respondent ignored, minimized, and denied that the mother had ever physically abused the children, and he ignored her serious abuse of alcohol. He disobeyed court orders and put the children directly in harm's way when he moved in with the mother and allowed her to be with the children unsupervised. He demonstrated extremely poor judgment when he moved the children's car seats into her van and let her drive away with the children. That they were not seriously injured in the accident that followed was merely a stroke of good luck. Respondent's statement that he could not tell by the smell or her demeanor that the mother had been drinking when he allowed the children to ride in the van with

her was not credible, given the testimony of the arresting officers that the smell of alcohol was obvious.

We agree with the lower court's finding that respondent clearly knew, from the prior court cases, that the mother could not reside with the children or have any unsupervised contact with them and was aware of the possible consequences of disobeying the court's orders. Respondent had been involved in the court system with the children since 2008. The court had sufficient evidence to conclude that giving respondent more time would not produce a different result. We find that the trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination. MCL 712A.19b(3)(g) and (j).

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-367.

The evidence showed that the children were extremely wary of their mother, who had physically harmed and psychologically damaged them. The children had witnessed disturbing domestic violence between respondent and their mother, and they knew that they were not safe when they were in her care. In addition, they suffered serious emotional damage because of the several times they were removed from the home, permitted to return, placed in danger, and removed again due to respondent's failure to comply with the court's orders concerning contact with the mother. The children understood that respondent had placed them in harm's way by permitting them to be under the supervision of their mother and permitting them to ride in the van with her when she was intoxicated. The children loved respondent but also had feelings of insecurity while in his custody because they knew that he had failed to protect them. Despite his promises and statements that he now understood he could not have the mother in his life or in the lives of his children, respondent's history and his testimony minimizing the dangers that the mother posed to the children demonstrated that he was not able to keep that promise or protect his children against her. The children needed stability and safety. The trial court did not clearly err in finding that termination of respondent's parental rights was in the best interests of the children.

We affirm.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ William C. Whitbeck