STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of GRACEY ALEXANDER-PARKER, JUDAH JEREMIAH PARKER, and ALLISON MARIE ALEXANDER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ALFRED ALEXANDER,

Respondent-Appellant,

and

ANNIE JEANETTE PARKER,

Respondent.

UNPUBLISHED
April 25, 2000

No. 219614
Wayne Circuit Court
Family Division
LC No. 97-354696

In the Matter of GRACEY ALEXANDER-PARKER, JUDAH JEREMIAH PARKER, and ALLISON MARIE ALEXANDER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANNIE JEANETTE PARKER,

No. 219990
Wayne Circuit Court
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Respondent-Appellee,

and

ALFRED ALEXANDER,

Respondent.

Before: Kelly, P.J., and Holbrook, Jr., and Griffin, JJ.

PER CURIAM.

In these consolidated appeals, respondents Alfred Alexander and Annie Jeanette Parker appeal as of right from the family court order terminating their parental rights to the minor children, Gracey Alexander-Parker, Judah Jeremiah Parker, and Allison Marie Alexander,[1] pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i), (g), and (j). We affirm.

Docket No. 219614

Respondent Alfred Alexander argues that the trial court clearly erred in finding that the statutory grounds for termination under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g) were established by clear and convincing evidence. We disagree.

In an appeal from an order terminating parental rights, the trial court's findings of fact are reviewed for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Vasquez*, 199 Mich App 44, 51; 501 NW2d 231 (1993). A finding is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991). Once the trial court finds at least one statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds that there has been a showing by the respondent that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997); *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Because respondent selectively challenges only two of the four statutory grounds for the termination of his parental rights, issues regarding the two remaining unchallenged bases for termination have been waived on appeal and provide adequate justification for affirmation of the trial court's order. In any event, addressing respondent's appellate claims, we conclude the trial court did not clearly err in finding that the conditions leading to the adjudication continued to exist at the time of trial and there was no reasonable likelihood that the conditions would be rectified in a reasonable time considering the ages

of the children, MCL 712A.19(b)(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i), or that respondent failed to provide proper care or custody for the children and there was no reasonable expectation he would do so within a reasonable time considering the ages of the children, MCL 712A.19(b)(3)(g); MSA 27.3178(598.19b)(3)(g).

The minor children were taken into care after police officers, responding to a call, found them alone and unsupervised at home on May 4, 1997. According to the testimony of one of the officers, the children and the home were filthy. A parent agency agreement was formulated and presented to respondent. According to the terms of the agreement, respondent was required to visit the minor children, obtain suitable housing, a legitimate source of income, attend all court hearings, maintain contact with the worker, complete parenting classes, and seek substance abuse assessment and treatment. However, respondent failed to substantially comply with these requirements during the period when the children were under the jurisdiction of the court.

The testimony at the permanent custody hearing indicated that problems were encountered during respondent's visits with the minor children, including verbal confrontations with the caretaker relatives arising from respondent's intoxicated state during these visits. Subsequent visits were ordered by the court to be supervised at the petitioner agency; however, respondent ceased all visitation and failed to visit the children from July 22, 1998, to October 20, 1998, even though he was provided with ample bus tickets. Consequently, the visits were suspended pursuant to MCL 712A.19a(7); MSA 27.3178(598.19a)(7). Respondent never obtained suitable housing, living with different relatives and friends, and failed to provide proof of a legitimate source of income. Respondent testified that he did not work but "mostly hustled," meaning he took odd jobs to support himself. Out of fifty-three scheduled drug screens, respondent submitted only four, testing positive for drugs in one instance and cocaine in another. Respondent testified at trial that he drank alcoholic beverages every day; despite this evidence of chronic alcoholism, he failed to submit verification that he attended NA/AA meetings or properly completed a substance abuse program.

Given these circumstances, we find no clear error in the trial court's decision terminating respondent's parental rights. Respondent's failure to comply with even the minimal requirements of the parent-agency agreement warranted the court's conclusion that there would not be a change in his ability to provide a proper home for the children in the future. See *In re Hall*, 188 Mich App 217; 469 NW2d 56 (1991); *In re Miller*, 182 Mich App 70; 451 NW2d 576 (1990); *In re Ovalle*, 140 Mich App 79; 363 NW2d 731 (1985). Respondent has failed to rebut the mandatory presumption that termination was clearly in the best interests of the minor children. See MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Respondent also argues that the trial court's zero tolerance policy regarding the use of alcohol violates his fundamental liberty interest in maintaining his family and is clearly erroneous. This argument is devoid of merit. Respondent testified that "I drinks [sic] every day if I can" and further testified he had been drinking for thirty-five years. The court's zero tolerance policy was eminently reasonable when viewed in the context of respondent's chronic alcoholism and the ramifications thereof, including the fact that he quit school in the seventh grade, had been unemployed since 1975, worked odd jobs as his sole means of support, and had no permanent home.

Respondent Annie Jeanette Parker contends on appeal that the trial court's order terminating her parental rights was reached without clear and convincing evidence of a single statutory basis indicating that the best interest of the minor children would be served by such termination. We disagree.

The circumstances leading to the termination of respondent's parental rights mirror those of corespondent Alfred Alexander, the father of the affected children. Respondent likewise failed to comply with the terms of her parent agency agreement. Although respondent visited the children when they resided at a relative's house, such visits were discontinued because of respondent's intoxicated state. The trial court ordered future visits to be supervised at the agency, but between July 1998 and October 1998 respondent attended none of these supervised visits even though she was provided with bus tickets and transfers. Respondent never obtained suitable housing and never provided proof of employment. Significantly, with respect to drug treatment, the testimony indicated that between October 1997 and September 1998, respondent was scheduled for fifty-four screens but attended none of them. Despite the fact that two of the minor children tested positive for cocaine at birth, respondent neither sought assessment for drug treatment nor attended any NA/AA meetings as required by the parent agency agreement until one month prior to the permanent custody trial.

"In determining whether the return of the child would cause a substantial risk of harm to the child, the court shall review the failure of the parent to substantially comply with the terms and conditions of the case service plan . . . as evidence that return of the child to his or her parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being." MCL 712A.19a(4); MSA 27.3178(598.19a)(4). See also, *Hall, supra*; *Miller, supra*; *Ovalle, supra*. In rendering its decision in this case, the trial court relied in part on the fact that respondent evidenced little intent to comply with the parent agency agreement and there was no indication of her willingness or ability to do so.

In light of these proofs, we find no clear error in the trial court's determination that termination of respondent's parental rights pursuant to subsections (3)(a)(ii), (c)(i), (g), and (j) was supported by clear and convincing evidence. Respondent presented no evidence to the contrary showing the termination of her parental rights was clearly not in the best interests of the children.

Affirmed.

/s/ Michael J. Kelly
/s/ Donald E. Holbrook, Jr.
/s/ Richard Allen Griffin

[1] Although respondent-appellant father also argues against the termination of his parental rights to Terri Lee Alexander, this child is in fact not a party in this appeal.