

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANDREW LEE PRICE, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LEE PRICE, JR.,

Respondent-Appellant.

UNPUBLISHED

March 16, 2001

No. 228963

Saginaw Circuit Court

Family Division

LC No. 00-26359-NA

Before: Griffin, P.J., and Neff and White, JJ.

PER CURIAM.

Respondent-father (respondent) appeals as of right a family court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j); MSA 27.3178(598.19b)(g) and (j).¹ We affirm.

To terminate parental rights, the family court must find that at least one of the statutory grounds for termination has been met by clear and convincing evidence. MCR 5.974(I); *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). Once a statutory ground is established, the court must terminate parental rights unless “there exists clear evidence, on the whole record, that termination is not in the child’s best interests.” MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). We review the family court’s findings of fact under the clearly erroneous standard. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

We find from a review of the record that the trial court did not clearly err in finding that each of the above-referenced subsections was established by clear and convincing evidence. Further, the evidence did not establish that termination of respondent’s parental rights was clearly not in the child’s best interests. *In re Trejo, supra*. The record shows that respondent has been incarcerated in prison for most of the minor child’s life and was in fact serving a sentence

¹ The mother of the minor child voluntarily terminated her parental rights to the child.

stemming from a parole violation at the time of the termination proceedings.² Respondent's contact with his son, who was seven years of age at the time of the termination hearing, has consequently been minimal, consisting of, at most, four weeks of personal interaction over the lifetime of the child. Respondent contended at trial that he was denied access to the child by the biological mother; however, the mother testified to the contrary, stating that respondent did not want any contact with his son. The record indicates that respondent never contributed any financial or emotional support for his son.

A child protective worker testified that in light of the dearth of contact respondent had with his son, his uncertain future given his incarceration, and the lack of stability due to respondent's transitory lifestyle pattern, termination of respondent's parental rights was in the child's best interests. Even respondent's sister, who at respondent's behest was willing to assume long-term guardianship or even adoption of the minor child if the court deemed such placement to be appropriate, testified that respondent was not stable enough to care for the child on a long-term basis and, significantly, stated her belief that it would be in the child's best interest to have respondent's parental rights terminated so that the child would have the opportunity to be placed in a stable home. In a telling statement, respondent's sister testified that if she were to assume care and custody of the child, any visitation by respondent should be supervised because "if I let him [respondent] alone with the children for a moment, the guarantee is that he may not come back."

Respondent himself testified that "the best interest right now is for him [the minor child] to remain with my sister" for a prolonged period of time. When questioned regarding whether he saw an opportunity in his future when he might be able to parent his child, he replied,

[N]ot right at this time. . . . I plan to get some . . . help for my alcoholism and . . . to get my life together first. I would like to seek that, because . . . I have a problem. I get mad and, like my sister says, I don't think a lot . . .

The record further indicates that when respondent violated his parole, he moved to Iowa, taking with him another son. The trial court noted that during respondent's relatively brief stay in that state, he was arrested for assaulting a police officer and subsequently extradited back to Michigan, leaving his other child in foster care under the supervision of state authorities in Iowa pending adjudication of his parental rights. A family court may apprise itself of all relevant considerations; the treatment of one child is probative of the treatment of other children of the party. *Jackson, supra* at 26.

In light of the above evidence, we conclude the family court properly determined that the statutory grounds for termination had been established by clear and convincing evidence. Further, in light of the available evidence, we cannot conclude that termination was not in the

² At the time of trial, respondent's earliest possible release date from prison was August 2001 and his incarceration could potentially continue until February 2011. A child protective services representative testified that even assuming respondent's early release in 2001, it would take at least one more year beyond his release date to establish and carry out a treatment plan as a step toward establishing respondent's custody of the child.

child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo, supra*. Accordingly, the family court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Richard Allen Griffin

/s/ Janet T. Neff

/s/ Helene N. White