

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXIS MARIAH SHARP,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ALVEN SHARP, a/k/a ALVIN DEANDRE
SHARP,

Respondent-Appellant,

and

ELIZABETH GREEN, FRANK JAMES
THOMAS, a/k/a FRANK JAMES BURKS, and
DEVAUGHN MIDDLEBROOKS,

Respondents.

In the Matter of FRANK MARQUIZE GREEN,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES THOMAS, a/k/a THOMAS BURKS,

Respondent-Appellant,

and

UNPUBLISHED
December 18, 2003

No. 247911
Wayne Circuit Court
Family Division
LC No. 01-403557

No. 248070
Wayne Circuit Court
Family Division
LC No. 01-403557

ELIZABETH GREEN, ALVEN SHARP, a/k/a
ALVIN DEANDRE SHARP, and DEVAUGHN
MIDDLEBROOKS,

Respondents.

In the Matter of ALVONTAY MARQUIS GREEN,
FRANK MARQUIZE GREEN, ALIJAH MARIA
GREEN, and ALEXIS MARIAH SHARP, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELIZABETH GREEN,

Respondent-Appellant,

and

ALVEN SHARP, a/k/a ALVIN DEANDRE
SHARP, FRANK JAMES THOMAS, a/k/a
FRANK JAMES BURKS, and DEVAUGHN
MIDDLEBROOKS,

Respondents.

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

PER CURIAM.

In these consolidated cases, respondents-appellants appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), (g), (h), and (j). We affirm. These appeals are being decided without oral argument pursuant to MCR 7.213(A) and (E).

The trial court did not clearly err in finding that at least one of the statutory grounds for termination were established by clear and convincing evidence as to each respondent. MCR 5.974(I), now MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

MCL 712A.19b(3)(a)(ii) applied only to respondent Middlebrooks, who is not an appellant. Respondent-appellant Green actively sought custody of the children, and respondent-appellants Sharp and Thomas indicated a desire to plan for their children following their release from prison. The evidence was not clear and convincing that they willfully abandoned their children.

MCL 712.19b(3)(c)(i) and (g) applied to respondents-appellants Green, Sharp and Thomas. The conditions leading to adjudication, namely Sharp's incarceration until 2009 and Thomas' incarceration until 2013 (absent parole) and Green's homelessness, unemployment, marijuana use, and criminal probation status, had not been rectified from the time of the initial disposition in October 2001 to termination in March 2003. Respondents-appellants were unable to provide proper care or custody for the children because of these conditions. The possibility of parole for Sharp and Thomas was uncertain, and they would require significant time to comply with their parent agency agreements after their releases. Green's continued use of marijuana and her relationship with a man charged with domestic violence indicated that she had not benefited from her participation in counseling for substance abuse and domestic violence. Respondent-appellant Green had not made sufficient progress during the seventeen months of this proceeding. Given those facts, the trial court did not err in finding that the condition of failure to provide proper care or custody would not be rectified by respondents-appellants Green, Sharp or Thomas within a reasonable time.

MCL 712A.19b(3)(h) applied only to respondents-appellants Sharp and Thomas. Their earliest release dates in 2009 and 2013, respectively, with no certainty of parole, deprived their children of a normal home life in excess of two years. Respondent-appellant Sharp argues that he had provided a custodial plan for Alexis with his aunt, Karen Sharp, and that therefore this subsection and subsection 19b(g) could not apply to him. However, respondent-appellant Sharp provided this plan after he had been imprisoned and Alexis had been adjudicated a temporary court ward. After adjudication, Alexis' custody was the responsibility of the trial court, which had already placed her and a sibling with a maternal relative. Respondent-appellant Sharp's plan was not a viable custodial plan because it was too late, did not include financial support and other elements while he was imprisoned, and was not acceptable to Karen Sharp, who did not want to separate Alexis from placement with her sibling. The trial court did not err in finding that this subsection was established with respect to respondents-appellants Sharp and Thomas.

MCL 712A.19b(j) can apply only to respondent-appellant Green. Return of the children to respondents-appellants Sharp or Thomas was not possible, and respondent Middlebrooks' whereabouts were unknown. Since respondent-appellant Green had not rectified the unsuitable housing arrangements and marijuana use that had placed the children at risk at the time of adjudication, the trial court did not err in finding that the children would be at risk of harm if returned to her.

Additionally, the evidence did not show that termination of respondents-appellants' parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children were properly cared for in the custody of relatives, which they had not been while in the custody of respondents-appellants Green and Sharp.

Thus, the trial court did not clearly err in terminating respondents-appellants' parental rights to the children.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Helene N. White