

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KATELYN CHRISTINE
ZICKAFOOSE and ETHAN EDWARD
ZICKAFOOSE, minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JEFF LYNN ZICKAFOOSE,

Respondent-Appellant,

and

MEREDITH ZICKAFOOSE,

Respondent.

UNPUBLISHED

June 15, 2004

No. 252649

St Joseph Circuit Court

Family Division

LC No. 02-000484-NA

Before: Sawyer, P.J., and Gage and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(g). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary issue raised at trial was respondent-appellant's failure to submit clean drug screens as required by court order. Although respondent-appellant's positive screens for morphine and heroin-like derivatives could obtain from the prescription medication that he took for pain, he produced absolutely no evidence to explain the cocaine-positive screens save for his testimony that the screen results were simply "wrong." Moreover, he failed to appear the "vast majority" of the time and submit to drug screens as required. Although respondent-appellant testified that he missed certain screens because he was out of town, he

nevertheless admitted that he did not appear for some of the screens because the tests indicated that he took illicit substances, and the tests “hurt [him worse]” than failing to appear all together.

In addition, although respondent-appellant completed parenting classes, he failed to complete homework assignments and his participation was considered not “genuine.” With regard to weekly visitations, he interacted well with his children at the outset and appeared for scheduled visitations. However, he then missed two visits, which, according to the FIA caseworker, caused the children to engage in severe acting-out behaviors. Moreover, when the children came into protective custody, Katelyn suffered from very serious dental problems, which were so pervasive the child had to endure extensive surgery to rectify the condition. Notwithstanding, three weeks after surgery, respondent-appellant purchased sweets for the child in complete contravention of her physician’s directives.

Considering the evidence presented upon the whole record, the trial court did not clearly err in finding that respondent-appellant failed to provide proper care and custody for his children and that there was no reasonable expectation that he would do so within a reasonable time. Further, the evidence did not demonstrate that termination of respondent-appellant’s parental rights was contrary to the children’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Accordingly, the trial court did not err in terminating respondent-appellant’s parental rights to his minor children.

Affirmed.

/s/ David H. Sawyer
/s/ Hilda R. Gage
/s/ Donald S. Owens