

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BETTY BREONNA BANKS,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
January 10, 2006

Petitioner-Appellee,

v

LIVELL J. BANKS,

Respondent-Appellant.

No. 263338
Wayne Circuit Court
Family Division
LC No. 02-411992-NA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (h), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that petitioner made reasonable efforts to reunite respondent with his daughter. MCL 712A.18f(4); *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). When respondent was arrested and incarcerated in August 2000 for violating parole, respondent's mother became the child's guardian. Respondent was released in 2002, and the mother, without notifying the court, returned partial custody to respondent. In April 2002, the child reported to faculty members at school that respondent had repeatedly whipped her on her arms and legs with a belt. Witnesses attested that the child bore marks consistent with a whipping with a belt. Shortly afterward, respondent was arrested and returned to prison for another parole violation. Respondent was released in July 2003, but initially refused to sign a case treatment plan for reunification with his daughter because of his indignation that the court had found his whipping abusive. The record contained clear evidence that petitioner offered respondent a case treatment plan and made referrals designed to help him comply with the plan. There was equally clear evidence that respondent refused to sign any treatment plan until January 2004, and that he then failed to provide documentation that he completed the parenting or anger management courses. In November 2004, respondent was again arrested and incarcerated for

violating parole. Under these circumstances, the trial court did not clearly err in finding that petitioner made reasonable efforts to foster reunification.

Further, the trial court did not clearly err in finding that the statutory grounds for termination set forth in MCL 712A.19b(3)(c)(i), (g), (h), and (j) were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). At the time of the termination hearing, respondent was incarcerated indefinitely and had been incarcerated 3 ½ out of the previous 5 years. During that time, he only had partial, unsupervised, and unofficial custody of the child for a few months before she reported a beating with a belt. In this case, this evidence was sufficient evidence to prove the statutory grounds supporting termination. Furthermore, the evidence did not show that termination of respondent's parental rights was clearly contrary to the child's best interests, MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000), so the trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot