

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LA DIAMOND L. SMITH and  
DEMARCO SMITH, Minors.

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

UNPUBLISHED  
January 10, 2006

Petitioner-Appellee,

v

LLOYD A. DIXON,

Respondent-Appellant,

and

DARLENE D. SMITH,

Respondent.

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No. 263747  
Wayne Circuit Court  
Family Division  
LC No. 03-422673-NA

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

MEMORANDUM.

Respondent-appellant appeals as of right from an order terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(c)(ii), (g), 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 determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The circumstances that brought the minor children under the court's jurisdiction included their mother's drug use during pregnancy and respondent-appellant's failure to protect his children. Following adjudication, respondent-appellant admitted to also having a substance abuse problem. By the time of the termination trial, he had not substantially complied with the terms of his treatment plan and had not overcome his own substance abuse problem or maintained stable housing and income. Respondent-appellant admitted that he had been "experimenting" with cocaine over the last three years and that he needed assistance overcoming his substance abuse activities before he could parent the minor children. He did not have a job and did not have a place to live as a result of these activities. He acknowledged that he could not take care of the two young children at that time. Respondent-appellant had been focusing on his

recovery and did not visit with the minor children or stay in contact with his caseworker. Therefore, the trial court did not err in finding that statutory grounds for termination of his parental rights had been established.

Furthermore, the evidence did not show that the children's best interests precluded termination of respondent-appellant's parental rights. MCL 712A.19b(5). While there was some testimony that respondent-appellant was appropriate when he did visit the children and that some bonding did exist, respondent-appellant had not visited the minor children for four months at the time of the conclusion of the termination trial. He admitted that he needed to focus on his recovery and could not care for the minor children at that time. Whether or when respondent-appellant would stop using cocaine was not certain. Therefore, the trial court properly found that the minor children needed an opportunity for stability and permanence in their life.

Affirmed.

/s/ Peter D. O'Connell

/s/ Michael R. Smolenski

/s/ Michael J. Talbot