

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SARAH NICOLE EVANS,
Minor.

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

UNPUBLISHED
January 10, 2006

Petitioner-Appellee,

v

JAMES ROME EVANS,

No. 263760
Wayne Circuit Court
Family Division
LC No. 98-373837-NA

Respondent-Appellant,

and

CAROL LYNN BODA, TIMOTHY LEE DAVIS,
and BRIAN DALE CROWE,

Respondents.

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

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), and (g). 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 for termination of parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant was incarcerated at the time Sarah became a temporary court ward. Upon his release from prison, he visited Sarah only four times and did not meet with the caseworker to discuss his parent agency agreement. Mail sent to his address was returned as unclaimed. Respondent-appellant was again incarcerated during this proceeding, and the evidence showed that his earliest release date was 14 months after termination and his latest release date was more than 20 years later.

The trial court did not merely paint respondent-appellant with the broad brush of noncompliance, which it attributed to the other respondents in this case, as respondent-appellant

argues, but made definite and specific findings relating respondent-appellant's incarceration to termination of his parental rights. The evidence showed that respondent-appellant had not provided proper care or custody for Sarah in the past because he had been incarcerated and left her in the neglectful and abusive care of her mother, had not rectified the conditions of incarceration and habitual criminality, would not be able to provide care and support for Sarah for a minimum of 14 more months because of his incarceration, had not complied with services while free in the community, and would not likely comply with services once released. Respondent-appellant's uncertain release date, and his lack of performance during the time he was not incarcerated, demonstrated that there was no reasonable likelihood that he would rectify the conditions of adjudication or be able to provide proper care or custody for Sarah within a reasonable time.

Respondent-appellant asserts three additional instances in which the trial court made erroneous findings, none of which has merit. First, the trial court's finding that respondent-appellant was offered a parent agency agreement but was incarcerated and unable to comply was not erroneous. A parent agency agreement was prepared for respondent-appellant but not hand-delivered and was returned by mail as unclaimed. Respondent-appellant made no effort to meet with the caseworker to discuss what he must do to regain custody of Sarah. His incarceration made delivery or non-delivery of the parent agency agreement a moot point because he was unable to comply with its provisions. Second, the trial court's finding that respondent-appellant was present by speakerphone at hearings was supported by the record. Third, although respondent-appellant was addressed by different names once or twice during this proceeding, he was correctly named in court documents, including the termination order, thus rendering the infrequent use of a different name inconsequential.

Additionally, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in Sarah's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Sarah was a temporary court ward from ages 15 to 25 months and again from ages five to seven years. She knew respondent-appellant as her father but strongly desired to be adopted by her foster family. There was no reasonable likelihood that respondent-appellant would be able to provide Sarah with a stable home within a reasonable time. No evidence showed that termination of respondent-appellant's parental rights was clearly contrary to Sarah's best interests, and the trial court did not err in finding that it was mandated to terminate respondent-appellant's parental rights once the statutory grounds for termination were established.

Affirmed.

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