

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DA'QUANTAE DWAYNE
HUSSEY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WALTER D. THOMAS,

Respondent-Appellant,

and

LASHIEKA HUSSEY,

Respondent.

UNPUBLISHED

May 20, 2008

No. 281158

Kalamazoo Circuit Court

Family Division

LC No. 00-000019-NA

Before: O'Connell, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent father appeals as of right a circuit court order terminating his parental rights pursuant to MCL 712A.19b(3)(a)(ii) [the parent has deserted the child for 91 or more days]; (c)(i) [the conditions leading to the adjudication continue to exist with no reasonable likelihood of rectification within a reasonable time given the child's age]; (c)(ii) [other conditions brought the child within the court's jurisdiction, the parent received recommendations to rectify those conditions but has not done so despite a reasonable opportunity]; and (g) [irrespective of intent, the parent fails to provide proper care and custody and no reasonable likelihood exists that he might do so within a reasonable time given the child's age].¹ We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

¹ The parental rights of the mother, Lashieka Hussey, were also terminated, but she is not a party to this appeal. References to "respondent" throughout this opinion are to respondent father only.

I. Facts and Proceedings

On June 28, 2006, petitioner filed a petition alleging that the mother's parental rights to other children had been terminated, her home environment was unfit due to substance abuse, and the child tested positive for cocaine at birth. The petition asserted that respondent was the minor child's "putative father." The circuit court authorized the petition and removed the child from his mother's care. On August 10, 2006, the circuit court conducted a pretrial hearing and ordered respondent to "resolve paternity," and to appear at the next hearing with proper identification.

Respondent established paternity on August 30, 2006. Petitioner filed an amended petition the next day, alleging as to respondent a lengthy history of substance abuse requiring treatment, unemployment, inadequate housing, and an inability to meet the child's financial needs. At the adjudication hearing conducted on August 31, 2006, respondent admitted the allegations, and the court exercised temporary jurisdiction over the child. Respondent agreed to a case service plan requiring him to complete a psychological evaluation and a substance abuse assessment, attend parenting classes, participate in random urine drug screens, maintain a "substance free/criminal free lifestyle," and obtain housing and legal employment.

Respondent failed to appear at a dispositional review hearing conducted on January 5, 2007, and the circuit court noted "little compliance, little benefit" in its dispositional order. Respondent also did not appear at the next dispositional review hearing, on March 29, 2007. Foster care worker Julie Griggs related at the hearing that respondent ceased communicating with her in August 2006, and she did not know where he lived.

The circuit court conducted a permanency planning hearing on June 26, 2007. Respondent again failed to appear, and the court observed that the notice of hearing mailed to respondent had been returned. Griggs testified that respondent failed to attend two scheduled meetings, and failed to participate in or benefit from offered services. The Court ordered petitioner to file a petition seeking termination of the respondent's parental rights. On July 27, 2007, petitioner filed a supplemental petition alleging that respondent had admitted to a long history of substance abuse needing treatment, an inability to provide housing for the child, failed to comply with the case service plan and to maintain contact with the caseworker, and had never visited with the child.

Respondent attended and participated in the termination trial conducted on September 27, 2007. Griggs testified that respondent had failed to comply with any aspect of the case service plan and never engaged in parenting time with his son. She described five meetings with respondent in July and August 2006, and respondent's failure to contact her again until April 2007. Griggs testified that when respondent contacted her in April 2007, she scheduled two meetings at his request, but he failed to attend either of them.

Respondent acknowledged his failure to comply with the case services plan, and admitted to being unemployed and homeless. He explained that he left Michigan in August 2006 to care for his sick brother in Illinois, and could not return until April 2007. Respondent acknowledged that it might require a year for him to obtain housing and employment, and to complete parenting classes.

The circuit court terminated respondent's parental rights, noting that respondent had offered "no explanation that is viable for his failure to participate in services or to visit his son." The court observed that despite respondent's promises when the case commenced, he did "nothing" to fulfill his parental obligations. At the conclusion of the hearing, the circuit court terminated respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (c)(ii), and (g). The circuit court declared that it "cannot find that it's clearly not in the child's best interest that termination be had." Respondent now appeals as of right.

II. Issues Presented and Analysis

Respondent contends that insufficient evidence supported the circuit court's decision to terminate his parental rights on any statutory ground. This Court reviews for clear error a circuit court's finding that a ground for termination has been established by clear and convincing evidence "and, where appropriate, the court's decision regarding the child's best interest." *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005) (internal quotation omitted); see also MCR 3.977(J). Clear error exists when some evidence supports a finding, but a review of the entire record leaves the reviewing court with the definite and firm conviction that the lower court made a mistake. *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). A circuit court's finding of one statutory ground is sufficient to terminate parental rights. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Clear and convincing evidence supported the circuit court's reliance on MCL 712A.19b(3)(a)(ii) as a ground for terminating respondent's parental rights. Respondent never visited with the minor child, made no effort to provide his son with support, and failed to call or correspond with the child's caseworker between August 2006 and April 2007. These facts clearly and convincingly establish that respondent deserted the minor child for more than 91 days and did not seek custody during that period.

Furthermore, clear and convincing evidence also supported the circuit court's finding that the conditions leading to the adjudication continued to exist without reasonable likelihood of correction within a reasonable time. The conditions that led to the adjudication included respondent's substance abuse, unemployment, and inadequate housing. Additional concerns arose during the case, including respondent's failure to comply with any aspect of the case service plan, and his apparent lack of interest in visiting the child. At the time of the termination hearing, respondent remained unemployed and homeless, had never visited his son, and admitted that he would not be in a position to care for the child at any time in the foreseeable future. The circuit court did not err in terminating respondent's parental rights pursuant to subsection (c)(i).

On the basis of the same clear and convincing evidence, the circuit court properly terminated respondent's parental rights pursuant to subsection (g), correctly concluding that, without regard to intent, he failed to provide proper care and custody for the child, and that no reasonable expectation existed that he could do so within a reasonable time, considering the child's young age.

In light of our finding of clear and convincing evidence supporting the termination of respondent's parental rights on three grounds, we need not address whether the circuit court

erred in finding an additional ground for termination in subsection (c)(ii). *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000).

Affirmed.

/s/ Peter D. O'Connell
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher