STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CHRISTOPHER DZIEDZIC,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JAMES WILLIAM WEBER,

Respondent-Appellant.

UNPUBLISHED
December 11, 2008

No. 285727
Dickinson Circuit Court
Family Division
LC No. 07-000518-NA

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

MEMORANDUM.

Respondent appeals by right the family court's order that terminated his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(*ii*), (g), and (j). We affirm. This appeal has been decided without oral argument. MCR 7.214(E).

The family court did not clearly err by finding that statutory grounds for termination set forth in §§ 19b(3)(g) and (j) were proven by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).[1] Respondent testified that he had lived in five different places within the preceding two years. His work history was sporadic. There were times when he was without electricity and without the ability to pay for gasoline in order to visit Christopher. Respondent failed to appreciate what it would take to care for Christopher. The family court properly determined that respondent was without the ability to provide proper care or custody for Christopher. Moreover, respondent's incarceration for OUIL, fourth offense, prevented petitioner from providing meaningful services. There was no reasonable expectation that respondent would have been able to provide proper care and custody within a reasonable time considering Christopher's age.

[1] We need not determine whether the ground for termination contained in § 19b(3)(a)(*ii*) was established because only one statutory ground for termination must be proven to support termination of parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Respondent also had an untreated alcohol problem and a history of violent and criminal behavior. The child's mother testified that she was physically and mentally abused when she lived with respondent. Respondent denied this, but then admitted that he had a recent conviction of battery or domestic violence. Respondent also had a previous conviction of second-degree child abuse. It was alleged that respondent struck the half-sibling of his oldest child. We recognize that respondent pleaded no contest to this charge and disputed the child abuse conviction, but this does not change the fact that he stood convicted of hurting a child. The family court did not err by finding that there was a reasonable likelihood, based on respondent's conduct or capacity, that Christopher would have been harmed if returned to respondent.

Nor did the family court err in its best interests determination. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). In addition to respondent's overall inability to provide proper care and custody for the child, his serious drinking problem, and his history of violent and criminal behavior, there was scant evidence offered regarding respondent's relationship with Christopher. Respondent's own testimony revealed that he had spent very little time with Christopher. The child's mother testified that there was never a time when respondent visited regularly with Christopher. It seemed as though respondent wanted to blame the mother for everything. However, respondent did nothing to enforce his legal right to see Christopher. There was simply no evidence that a strong bond existed such that termination would have been clearly contrary to the child's best interests.[2]

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter

[2] The Legislature amended MCL 712A.19b(5), effective July 11, 2008. See 2008 PA 199. MCL 712A.19b(5) now provides that "[i]f the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights . . . ." However, the termination order at issue in this case was entered before this 2008 amendment took effect.