

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEVIN FRANCES BONNER,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RAIF T. BONNER,

Respondent-Appellant,

and

TIFFANY DANIELS,

Respondent.

UNPUBLISHED

January 27, 2009

No. 286994

Otsego Circuit Court

Family Division

LC No. 07-000190-NA

Before: Hoekstra, P.J., and Fitzgerald and Zahra, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court's order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (l).¹ We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5);² *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). The trial court's

¹ The parental rights of Devin's mother, Tiffany Daniels, were also terminated but she is not a party to this appeal.

² MCL 712A.19b(5) has been amended, effective July 11, 2008, to require that a trial court make an affirmative finding that termination of parental rights is in the best interest of the child. 2008 PA 199. The amended statute does not affect the instant case because the termination order was

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decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at 356-357. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

There was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g) because he failed to provide proper care for Devin. At the time of the permanent custody hearing, respondent was without independent housing. Respondent was living in a halfway house as a condition of his probation for drug related convictions and was required to submit to drug screens, attend counseling, and participate in Narcotics Anonymous to address his drug addiction. It was only in this type of structured setting that respondent had demonstrated an ability to control his substance abuse. The evidence established that 60 to 80 percent of drug addicts relapse within the first year of recovery and that demonstrating the ability to overcome drug addiction would take additional time. Respondent had a prior relapse only two days after completing a drug abuse treatment program. Moreover, caring for an infant like Devin would only add pressure to respondent's life and make sobriety even more difficult to maintain. Thus, given respondent's history of recent and extensive drug use, his likelihood of relapse, his lack of housing, and the fact that he had never cared for Devin, he was unable to demonstrate an ability to provide proper care and custody of the child.

Termination of respondent's parental rights was also proper under MCL 712A.19b(3)(l) because his parental rights were previously terminated to another child. Respondent's parental rights were terminated to Devin's brother on August 23, 2007, because respondent failed to resolve his substance abuse issues. During the eighteen months of being offered services in that case, which was resolved only two months before Devin's birth, respondent was unable to overcome his drug addiction. As noted, respondent relapsed and suffered an overdose just two days after completing a substance abuse treatment program.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in Devin's best interest. Respondent did not present any evidence regarding the best interest of the child, and there was no evidence of an existing bond between Devin and respondent. Although respondent tried to visit Devin as much as he could, he had never been her caregiver and had not had the opportunity to bond with her as such. Also, it would be contrary to Devin's best interest to be reunified with a caregiver who has been unable to maintain sobriety and a commitment to a drug free lifestyle.

Respondent conceded that he was not yet ready for Devin's return, but argues that he will be ready within a reasonable time if offered services and if the court supervises his sobriety. There is no guarantee that respondent will be ready for reunification at any point in time. His extensive history of drug use and relapse immediately after completion of a rehabilitation program suggest otherwise. It would be contrary to Devin's best interest to disrupt her stability

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entered on June 27, 2008.

in hopes that respondent is in the minority of drug addicts who can refrain from relapsing when he has not been able to do so in the past.

Affirmed.

/s/ Joel P. Hoekstra

/s/ E. Thomas Fitzgerald

/s/ Brian K. Zahra