

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYLER DOUGLAS SIKORSKI,
II, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TYLER SIKORSKI,

Respondent-Appellant,

and

TEISSA COOL,

Respondent.

UNPUBLISHED
November 17, 2009

No. 292272
Mecosta Circuit Court
Family Division
LC No. 07-005231-NA

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

MEMORANDUM.

Respondent father appeals as of right from the May 12, 2009 trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (h), and (j).¹ We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court clearly erred by finding clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(h). MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). Respondent's earliest release date from prison was in June 2009, only two months after the termination hearing. MCL 712A.19b(3)(h) allows for termination of parental rights if a respondent is unable to provide a "normal home" for the child within two years of the termination hearing. There is too much uncertainty in potential release

¹ The parental rights of respondent mother were also terminated but she has not appealed that decision. References to respondent in the singular throughout this opinion will be to respondent father only.

dates for section 3(h) to be used as a basis for terminating parental rights when a respondent inmate's earliest release date is close to the time of the termination hearing.

But the trial court's error in terminating respondent's parental rights under § 3(h) was harmless. Only one statutory ground needs to be proven in order to terminate parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). In this case, respondent fails to contest the termination of his parental rights under MCL 712A.19b(3)(c)(i), (g), and (j) on appeal. Our review of the record shows no clear error in the trial court's finding of clear and convincing evidence to terminate respondent's parental rights under these other sections. *Sours, supra* at 633.

Finally, respondent challenges the trial court's best interests determination. This Court reviews the trial court's findings that termination of parental rights is in the child's best interests for clear error. MCR 3.977(J); *Sours, supra* at 633. To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours, supra*. Termination of parental rights may only occur if the court finds a statutory ground for termination and that the termination of parental rights is in the child's best interest. If the court so finds, termination is mandatory. MCL 712A.19b(5).

The trial court did not clearly err in finding that termination was in the child's best interests. *Sours, supra*. Testimony at trial established that the child was removed from his parents' custody while living in the home of respondent's mother. The home was filthy and unsafe. Respondent planned to live in this same house when released from jail. He had not held a job since the child's birth and would pick up and return cans and bottles for diaper money prior to his incarceration. Clearly, he does not have way to provide for the child in the near future. Furthermore, alcohol and drugs were a contributing factor to respondent's incarceration(s). While he has completed some treatment programs in jail, he failed fourteen screens prior to being incarcerated again and failed to verbalize a plan for remaining sober upon his release. The child was neglected prior to his placement and has thrived since his removal from respondents' care. At the time of the termination hearing, the child had been in foster care for fourteen of the thirty-eight months of his life. Although the child will not be permanently adopted by his great aunt and uncle (with whom he was placed following removal from the home), additional delay in a permanent placement is not in his best interest.

Affirmed.

/s/ Michael J. Talbot
/s/ Peter D. O'Connell
s/ Alton T. Davis