

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of A. P. REDMANN, Minor.

UNPUBLISHED  
November 23, 2010  
No. 298549  
Wayne Circuit Court  
Family Division  
LC No. 09-484990

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Before: SERVITTO, P.J., and ZAHRA and DONOFRIO, JJ.

PER CURIAM.

In these consolidated appeals, respondent parents appeal as of right from an order that terminated their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (child would likely be harmed if returned to the parent). We affirm.

Respondents argue that the trial court erred in terminating their parental rights and that the decision was not in the child's best interests. We disagree and find that the trial court did not clearly err in finding that statutory grounds for termination of respondents' parental rights were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); MCR 3.977(K).

The child came to the court's attention in January 2009 after the paternal grandmother summoned police to her home. The mother, the father, and the child had been living with the grandmother upon their relocation from Florida. The officer who responded noted that both respondents "appeared to be under the influence of something." The mother admitted that she and the father had smoked crack cocaine and she had taken some prescription medication. The father denied any illicit drug use and claimed he had taken a prescribed painkiller for a back injury. Respondents agreed to undergo substance abuse treatment during a Team Decision Making Meeting. However, the worker was compelled to file a petition for temporary custody when she learned of respondents' continued drug use. The child was made a temporary ward on March 23, 2009. Respondents were ordered to undergo a substance abuse assessment and treatment, provide weekly random drug screens, have a Clinic for Child Study evaluation,

participate in individual and domestic violence counseling, seek social support such as NA or AA, obtain employment, and obtain housing. The child remained with her paternal grandmother and did not have any special needs.

The father denied any illicit drug use and claimed he was only taking painkillers for a back injury. However, given the statements of the mother and the paternal grandmother that the father had an extensive drug problem, including a past problem with heroin and the present use of cocaine and prescription drugs, the worker and the referee reasonably included substance abuse counseling as well as weekly random drug screens as a part of the father's treatment plan. The father did not comply with either. The father provided only four of 57 requested screens, two of which were positive for opiates. He continuously stated that he had a valid prescription, but even if that were true, a valid prescription for opiate-based products would not mean that the father should be taking those drugs, especially in light of his serious substance abuse history. The father's behavior also indicated that he had a problem. In February 2010, the father went to Florida because he was on probation for a prior offense. While there, his bag was searched, revealing six prescription pills that were not in a bottle. Again, the father insisted that he held a prescription for the drugs; however, he failed to provide the Florida court with a valid prescription. He was convicted of possession of prescription drugs without a valid prescription. Although the father declared his possession of a valid prescription throughout the proceedings, that would not excuse his failure to submit to the screens. Each of the missed screens is deemed positive. Even knowing this, the father stubbornly refused to comply with that aspect of the treatment plan. The father argues that transportation was a problem, but he even refused to submit to a drug screen when ordered to do so at a March 23, 2009, hearing. For someone who claimed not to have a drug problem, the father allowed his use of prescription drugs and his failure to screen to hinder any efforts at reunification.

Not only did the father fail to complete the necessary drug screens, but he also failed to attend substance abuse treatment. The father was originally referred to Sims Counseling but was terminated for noncompliance in August 2009. The father complained it was Sims's fault that the sessions could not be scheduled. He was therefore re-referred to Alpha where he would satisfy all the components of substance abuse therapy, individual counseling, and domestic violence counseling. The father again failed to attend and was terminated for noncompliance in November 2009 after completing only five sessions. There was no excuse for his noncompliance, especially when the counseling was to take place at his residence. A third referral was made but was rejected when the father revealed that he was homeless. The father never attended AA/NA. The father apparently made a conscious decision to not comply with his treatment plan with regard to substance abuse issues.

The father also was in need of individual counseling. Respondents failed to attend the original Clinic in April 2009 and it had to be rescheduled for June 2009. The mother appeared with a large bruise on her arm. The clinician noted domestic violence between the two and failure of the mother to take medication. Both respondents were given a poor prognosis. Notably, the clinician observed that the father had inappropriate behaviors and an aggressive attitude. The father's September 15, 2009, psychiatric evaluation revealed that the father "has significant social skill impairments and is unable to handle his frustration in a socially appropriate way." The father was "significantly narcissistic, which tends to make it less likely that he will be able to accept responsibility for his own behavioral choices; thus, he tends to

blame others . . . . He clearly has not examined how his inappropriate adolescent behavior had intimidated his case manager and his mother.” The examiner concluded that the father “is emotionally functioning at the level of an early adolescent. He is impulsive and very self-focused and will require a great deal of psychological intervention in order to improve his emotional maturation,” including medication. Yet the father made absolutely no progress on his individual therapy in spite of the fact that the service was offered in his home.

In addition to his lack of progress regarding substance abuse counseling and individual therapy, the father was simply not in a position to care for the child. At the time of the final hearing the father was living in Florida where he intended to stay until his child was returned to his care. His plan was to live with the paternal grandmother and help care for the child. However, given their contentious relationship, the plan did not appear to be a good one. The father did not have housing or income. He was on probation for a drug-related crime and living in Florida, with no intention of returning to work on his treatment plan. He had untreated substance abuse and mental health issues. All of these reasons provided clear and convincing evidence to terminate the father’s parental rights pursuant to the foregoing subsections.

Having found clear and convincing evidence to terminate the father’s parental rights, the trial court then had to determine whether termination of his rights was in the child’s best interest. MCL 712A.19b(5). The father visited the child only 13 of 27 visits. His visits were suspended after the father failed to provide negative drug screens. His last visit with the child was in May 2009, but the visits were not suspended until July 2009. Some of the visits were appropriate and interactive, but there were other visits where there was evidence of a lack of bonding. The father would hold the child, but he was not attentive to her needs. The father was stubborn and defiant throughout the proceedings and refused to comply with his treatment plan. In so doing, he made a conscious choice to behave in a way that hindered reunification. More than a year had passed since the child was made a temporary ward. The father made no progress in that time and, in fact, seemed to be in a worse condition. The child should not be expected to wait for her father to actively engage in reunification efforts. She was entitled to permanence and stability.

Unlike the father, it appeared that the mother made attempts to comply with her treatment plan. She had housing and employment. She also regularly attended therapy and regularly visited with the child. The issues that remained were her continued volatile relationship with the father and her continued drug use. At the March 23, 2009, adjudication, the referee warned the parents, “This is a drug case. Clear and simple this is a drug case.” The referee further warned the mother that if the father remained in denial of his substance abuse problem, the mother might have to consider planning separately for the child.

Unfortunately, the mother did not benefit from substance abuse treatment. The mother attended two drug treatment facilities in Florida before moving to Michigan to live with the child’s paternal grandmother. She did not successfully complete either program. The mother managed to successfully complete outpatient substance abuse therapy with Oakdale in June 2009. However, she had positive drug screens after that and was re-referred to Alpha Family Counseling in September 2009. The mother entered a 21-day inpatient program at Oakdale on March 2, 2010, but was “kicked out” on March 5, 2010, because of smoking in the building. The mother then reported she was entering an intensive outpatient treatment with Lighthouse; however, the mother revoked her release for Lighthouse and the worker could not confirm her

attendance, status, or progress. Since February 10, 2010, the mother was asked to take a total of eight screens. She missed all but two, which were both positive for cocaine.

Even if the mother was making a sincere effort at addressing her substance abuse problem, she made no progress on the issue since the child was removed in January 2009. The mother had tried five different substance abuse treatment facilities in Florida and Michigan, but continued to relapse. She did not show any sustained period of sobriety, testing positive for cocaine in September 2009, February 2010, and March 2010. There may have been many other positives, but the mother (like the father) failed to attend many of the required screens, attending 24 of 57 screens.

In addition to the mother's continued drug use, she maintained contact with the father. The worker testified that there were 12 police incidents involving respondents since the child came into care, the most recent being January 2010. The father was living in Florida by the conclusion of the termination hearing, but the mother maintained daily contact with him. Although the mother attended individual therapy, which included counseling on domestic violence, it did not appear as though she benefited from the therapy. Given that both conditions leading to adjudication continued to exist -- substance abuse and domestic violence -- with no reasonable likelihood that the mother would change in the near future, there was clear and convincing evidence to terminate the mother's parental rights pursuant to the aforementioned subsections.

Having found a basis for terminating the mother's parental rights, the trial court had to determine whether termination was in the child's best interests. Unlike the father, the mother clearly maintained a bond with the child. She attended almost all of her visits. Overall, the mother interacted well with the child and tended to her needs by feeding and playing with her. She would bring the child gifts. Still, the visits never progressed to unsupervised because of the mother's continued drug use and the fact that the relationship between the mother and the paternal grandmother had grown increasingly contentious. Even though a bond existed and the mother faithfully visited the child, she was no closer to reunification. More than a year had passed and the mother's life was still unstable. In many ways she had improved her situation -- she had independent housing, income, and (at least for the time being) was separated from the father, whom she believed was a bad influence. Still, tragically, the mother could not overcome her substance abuse problem. The child had been in care for over a year and the mother was no closer to obtaining a sober lifestyle. The child should not have to wait any longer to obtain permanence and stability.

Affirmed.

/s/ Deborah A. Servitto

/s/ Brian K. Zahra

/s/ Pat M. Donofrio