

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

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UNPUBLISHED  
August 23, 2011

In the Matter of M.R.L. BEATTY and N.  
BEATTY, Minors.

No. 301639  
Calhoun Circuit Court  
Family Division  
LC No. 2009-000452-NA

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Before: MARKEY, P.J., and SAAD and GLEICHER, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to his minor children under MCL 712A.19b(3)(a)(ii), (c)(i), and (g). Respondent does not challenge the trial court's termination of his parental rights under MCL 712A.19b(3)(j). We affirm.

The children in this case were removed from the care of their mother after she was hospitalized for a drug overdose. On the day that the mother was hospitalized, child protective services contacted respondent in an effort to locate the children, one of whom was two years old; the other was five months old. Respondent first denied knowing where the children were, then admitted that he knew their location but threatened violence if protective services attempted to retrieve them. The children had never lived with respondent, nor had he ever supported them financially, visited them, or played any role in their care.

After the children were located and successfully retrieved by child protective services, petitioner contacted respondent and offered to provide him with services that would allow him to work toward custody of the children. Respondent expressed an interest in services, but thereafter failed to participate in any services, including failing to attend a scheduled psychological examination and failing to attend hearings before the trial court. Respondent did not contact the agency and made no attempt to visit the children or provide for their support. After approximately eight months, respondent was incarcerated on unrelated charges. He thereafter informed the foster care worker that he was not interested in participating in services.

In February 2010, the children were returned to the custody of their mother after she made progress complying with some services provided by petitioner. The children were again removed from her care in May 2010 after the mother failed to continue to comply with services and the oldest child was found wandering alone on a busy sidewalk. Petitioner subsequently sought termination of both parents' parental rights to the children. In June 2010, respondent informed the foster care worker that he wished to participate in services with a goal of gaining custody of the children. At that time, respondent was still incarcerated and his earliest release

date from prison was August 2011. The foster care worker suggested that respondent participate in the services available at the prison, such as parenting classes, employment, and cognitive thinking classes. Respondent's behavior in prison, however, had apparently rendered him ineligible for services in prison. In December 2010, the trial court terminated both parents' parental rights to the children.

Respondent contends that the trial court clearly erred in terminating his parental rights under statutory subsections (3)(a)(ii), (c)(i), and (g). We disagree, as a review of the record indicates evidence sufficient for termination under all of these subsections, as well as under subsection (3)(j). To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been demonstrated by clear and convincing evidence. *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005). Only one statutory ground is required for termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Desertion under subsection (a)(ii) includes the failure to make any substantial effort to communicate with the child or obtain assistance in regaining custody of the child. See *In re TM*, 245 Mich App 181, 193-194; 628 NW2d 570 (2001). In this case, it is undisputed that respondent had virtually no contact with the children before they were removed from the mother's custody in February 2009. After their removal, respondent made no effort to comply with the offered services, contact the agency, visit the children, or attend the hearings. After his imprisonment several months later, respondent informed the foster care worker that he did not wish to participate in services. Not until June 2010 did respondent inform the foster care worker that he wished to participate in services. In light of respondent's failure to have any involvement with the children either before or after their removal, and either before or after his incarceration until shortly before termination, it cannot be said the trial court clearly erred by finding that respondent had deserted the children.

We also disagree with respondent's contention that it was impossible for the trial court to have properly terminated his parental rights under subsection (c)(i) finding that the conditions that led to adjudication continued to exist and there was no reasonable likelihood that they would be rectified within a reasonable time considering the ages of the children. The foster care worker testified that at the time of adjudication the agency was concerned with respondent's emotional stability and his lack of parenting experience given that he had had virtually no contact with the children prior to their removal. At the time of termination approximately 1-1/2 years later, respondent had made no efforts to rectify these conditions. Respondent had not participated in offered services and rendered himself unavailable to parent the children by becoming incarcerated. Later, although some services such as parenting classes were available while defendant was incarcerated, respondent's actions rendered him ineligible for those services in prison with the result being that at the time of termination, respondent had made no progress in rectifying the conditions that led to adjudication.

Respondent next contends that termination was not warranted under subsection (3)(g), disputing the trial court's finding that respondent failed to provide proper care and custody for the children and that there was no reasonable expectation that he would be able to do so within a reasonable time considering the ages of the children. Respondent argues that a finding under this subsection is precluded by petitioner's failure to provide services to him in prison, arguing that

termination under this subsection is tantamount to terminating his parental rights solely because he is incarcerated. The record, however, is undisputed that respondent provided no care or custody for the children before their removal from the mother's custody. Similarly, after their removal respondent made no effort to participate in the offered services or in the court proceedings even in the approximately eight months before he was incarcerated. A parent's failure to comply with the parent agency agreement is evidence of failure to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Upon his incarceration, respondent again declined services from petitioner and also rendered himself ineligible for services in prison. In light of this unrefuted evidence, the trial court did not clearly err in finding that termination was warranted under subsection (3)(g).

Finally, we conclude on this record that the trial court also properly terminated respondent's parental rights to the children under subsection (3)(j). Respondent does not dispute on appeal, and because only one statutory ground is required for termination, we could affirm that a statutory ground existed on this basis alone.

For the same reasons we affirm the existence of all of the statutory grounds cited by the trial court, we conclude that the trial court did not clearly err in determining that termination of respondent's parental rights was in the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We affirm.

/s/ Jane E. Markey  
/s/ Henry William Saad  
/s/ Elizabeth L. Gleicher