

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 14, 2013

In the Matter of VANOSTRAN, Minors.

No. 309503
Kalamazoo Circuit Court
Family Division
LC No. 2004-000378-NA

In the Matter of VANOSTRAN, Minors.

No. 309562
Kalamazoo Circuit Court
Family Division
LC No. 2004-000378-NA

AFTER REMAND

Before: SERVITTO, P.J., and MARKEY and MURRAY, JJ.

PER CURIAM.

In this consolidated appeal, respondents appeal as of right the trial court order terminating respondent mother's parental rights under MCL 712A.19b(3)(c)(i), (c)(ii), (g) and (j), and respondent father's parental rights under MCL 712A.19b(3)(g) and (j) to SKV. In *In re Vanostran*, unpublished opinion per curiam of the Court of Appeals, issued December 13, 2012 (Docket No.'s 309503, 309562), this Court affirmed the order terminating respondents' parental rights to JV, DV, RV, and DJV, but conditionally reversed the order terminating respondents' parental rights to SKV and remanded to the trial court for resolution of the issue of notice under the Indian Child Welfare Act (ICWA), 25 USC 1901 *et seq.* with respect to this child, given that SKV's possible Indian heritage was raised at the outset of the 2004 proceeding. Pursuant to this Court's remand order, the trial court conducted several review hearings to resolve this issue and found that SKV is not eligible for membership in any of the tribes to which his biological father may have been distantly related and that termination of respondents' parental rights was still appropriate. We affirm.

The underlying facts of this case were summarized by this Court in *Vanostran*, slip op, *supra*. In short, and as it pertains to SKV, after receiving referrals in 2002 and 2003 alleging respondent father's perpetration of domestic violence and respondents' neglect of the children, and allegations in 2004 from SKV's school and from a visiting nurse that the neglect continued, that the home was in complete squalor and SKV was not receiving his necessary medication,

petitioner filed the first of three petitions in 2004 alleging SKV's physical, medical and educational neglect and the environmentally unfit condition of the home. In 2007, SKV came to school with a scratched face and a bruised ear. In addition, SKV's counselor had noted domestic violence between respondents. By January 2009, respondents had reportedly separated for at least the 20th time due to domestic violence, and Families First services were again implemented to address an unclean home and in response to numerous police reports of domestic violence resulting in property damage and injury to respondent mother and SKV. In June 2009, respondent father assaulted SKV. Officers responding to the June 2009 incident reported respondent mother's home was again in deplorable condition. Despite multiple in-home interventions by Families First, FRP, visiting nurses, Wraparound, continuous Family and Children's Services' counseling and medication services provided to respondents to assist them with the children, completion of several sets of parenting classes, completion of two domestic violence programs and nearly three years of consistent counseling with one therapist from 2009 to 2012, essentially nothing changed in eight years. Respondent father remained abusive and neglectful, and respondent mother did not become able to maintain an environmentally fit home, never significantly improved her ability to protect, parent and meet the children's basic needs, let alone their special needs, and never recognized a need to separate the children from respondent father during times the trial court ordered no contact, and when he failed to treat his bipolar disorder.

For our current purpose, what is important from this Court's prior decision is that we ultimately conditionally reversed the trial court order terminating respondents' parental rights to SKV and remanded the case to the trial court only for "resolution of the ICWA-notice issue." *Id.* at page 4. On remand, the trial court held several administrative review hearings. The trial court submitted an order dated March 8, 2013, indicating that at the review hearing held on January 23, 2013, the Department of Human Services complied with the statutory notice requirements to the four Native American Indian tribes mentioned as a possible connection to the biological father of SKV who was later adopted by respondent father. As of February 19, 2013, one of the tribes had responded that there was no evidence to support that SKV was a descendent of that tribe. The order further stated that on February 14, 2013, another of the tribes responded that SKV was neither registered nor eligible to register as a member of that tribe. The other tribes had not responded. As a result, the trial court ordered that none of the Native American Indian tribes identified as having a possible connection to SKV have responded that the child is eligible for membership in their tribe and/or that they wish to intervene in this matter. The trial court thus ordered, "The Court having previously made findings that there was clear and convincing evidence of statutory grounds to terminate the parental rights of [respondents], and that it was in the best interest of the minor child to terminate their parental rights, reinstates the Order Following hearing to terminate Parental Rights of the parents to [SKV]."

In an April 17, 2013, Order of Administrative Review, the trial court noted that it had received an update for the Department of Human Services with respect to contacts that had been made with other tribes pertaining to SKV's possible Native American heritage. All correspondences are attached to the order and, as noted by the trial court, none of the tribes contacted have indicated that SKV has a connection to their tribe. The correspondences from the tribes thus indicate that SKV will not be considered an "Indian child" as defined in the Federal Indian Child Welfare Act and an inability/unwillingness to intervene in this matter. The April

17, 2013, order states that it appears that notice to the tribes has been properly given and that the termination of parental rights is still appropriate.

Based upon the exhibits attached to the trial court's orders on remand, we are satisfied that appropriate notice was given in compliance with the ICWA, 25 USC 1901 *et seq.*, specifically, 25 USC 1912(a). The Indian tribes contacted specifically found no association of SKV with their respective tribes. We are also satisfied that clear and convincing evidence supported terminating respondents' parental right to SKV as set forth in *Vanostran, supra*, and that termination was in the child's best interest. The order terminating respondents' parental rights to SKV is thus affirmed.

Affirmed.

/s/ Deborah A. Servitto

/s/ Jane E. Markey

/s/ Christopher M. Murray