IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In re the Dependency of: J.B. (DOB: 6/14/08), Minor child. MATTHEW GEORGE, Appellant, v. STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	)	No. 67593-1-I DIVISION ONE UNPUBLISHED FILED: July 23, 2012

Cox, J. — To terminate an individual's parental rights the Department of Social and Health Services (the Department) must prove by clear, cogent, and convincing evidence that it has offered services reasonably available, or that such services would not remedy the parent's deficiencies within the foreseeable future.[1] Here, the Department met its burden to prove that it provided such services as were reasonably available to Matthew George and that termination of the parental relationship with George was in the best interest of J.B. We affirm.

J.B. was born on June 14, 2008, to Brittany Buck and George. When

[1] RCW 13.34.180(1)(d); In re Welfare of Hall, 99 Wn.2d 842, 851, 664 P.2d 1245 (1983).

they met, both parents were using methamphetamines. When J.B. was born, George was in prison for residential burglary and unlawful possession of a firearm in the second degree. George was released from prison on September 15, 2009, three months after J.B. was born. After his release, George contacted Buck and asked to meet J.B. J.B., Buck, and George moved into George's father's home, but both Buck and George began using methamphetamines and Buck soon moved out. George and J.B. then moved in with George's friends the Allens.

In December 2009, George was ordered to participate in an inpatient program as a result of his methamphetamine use. George left J.B. with the Allens. Upon George's release, he was arrested for attempting to elude a police officer, assault of a canine officer, and possession of methamphetamine. He pled guilty to these charges and was incarcerated.

J.B. remained in the Allens' care after George's arrest. But, when the Allens discovered George was incarcerated, they called the police to report their care of J.B. The police took protective custody of J.B., and agreed orders of dependency followed. The court found that the Department should provide the following services to George: parenting classes, dependency process workshop, domestic violence evaluation, anger management evaluation, chemical dependency evaluation, and a mental health counseling evaluation.

During his initial incarceration in the Washington State Correctional Center in Shelton, George completed a parenting class and a dependency

process workshop. George was then transferred to the Walla Walla State Penitentiary. A month after this transfer, he was moved to the intensive management unit (IMU) as a result of his assault of another inmate. There was only one service program available in the IMU.

The social worker assigned to J.B.'s case became aware of the limited services available in the IMU in February 2011. She did not report these limitations on services to the court until the termination hearing.

Termination proceedings regarding both Buck and George's parental rights were held in June 2011. The court entered findings of fact and conclusions of law supporting the order granting the termination petition, terminating parental rights of both Buck and George to J.B.

Only George appeals.

PROVISION OF SERVICES

George argues that the Department failed to prove by clear, cogent, and convincing evidence that it satisfied all six prongs of RCW 13.34.180(1) and that the court erred when it terminated his parental rights. We disagree.

Generally, in order to terminate the parent-child relationship, the Department must prove each of the six statutory elements of RCW 13.34.180(1) by clear, cogent, and convincing evidence.[2] If the Department meets all six prongs, there is an implicit finding of parental unfitness.[3] The Department must

[2] In re Dependency of K.N.J., 171 Wn.2d 568, 576-77, 257 P.3d 522 (2011).

[3] Id.

then demonstrate by a preponderance of the evidence that termination is in the best interest of the child.[4] Generally, we will not disturb the findings of the trial court as long as they are supported by substantial evidence.[5]

The sole factor outlined in RCW 13.34.180(1) that is at issue on appeal is whether the State has provided all necessary services that are capable of correcting the parental deficiencies of George.[6] Thus, the Department must prove by clear, convincing and cogent evidence that "the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided . . . ."

Here, the court found that the Department had "attempted to offer or provide the father with the court ordered services, but the father was unable to access those services because of his behavior which placed him in the IMU."[7] Substantial evidence supports this finding. As his IMU counselor testified, the court ordered services were available to George while he was in the general

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[4] In re Dependency of T.R., 108 Wn. App. 149, 160-61, 29 P.3d 1275 (2001).

[5] Hall, 99 Wn.2d at 849 (quoting In re Sego, 82 Wn.2d 736, 739, 513 P.2d 831 (1973)).

[6] RCW 13.34.180(1)(d).

[7] Clerk's Papers at 30.

population in Walla Walla. Though George testified that he would not have had access to some of those services had he remained in the general population, the court believed George's counselor's statement regarding available services. We do not review a trial court's credibility determinations on appeal.[8]

George was placed in the IMU as a result of his own actions—an assault on another inmate. The assault occurred in August, and George could have moved back to the general population at the end of March. But because he committed several other infractions, he has remained in the IMU. It was George's placement in the IMU that limited the availability of services. The only service available to George in the IMU was a Cognitive Behavior Change program, which an IMU inmate must complete to return to the general population. Thus, it was George's own behavior that caused the unavailability of required services.

Generally, a parent's unwillingness or inability to make use of the services provided satisfies the Department's duty to provide such services.[9] Though George testified that he would have participated in any services that would have helped him, his own actions resulted in his inability to access services. Consequently, the court did not err when it found that the Department had complied with RCW 13.34.180(d).

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[8] In re Marriage of Rideout, 150 Wn.2d 337, 350, 77 P.3d 1174 (2003).

[9] In re Dependency of P.D., 58 Wn. App. 18, 26, 792 P.2d 159 (1990) (quoting In re Dependency of Ramquist, 52 Wn. App. 854, 861, 765 P.2d 30 (1988)).

Further, as our supreme court held in In re Welfare of Hall, where there is evidence from which the trial court could conclude that services would not have remedied a parent's difficulties in the "foreseeable future," termination is appropriate.[1] This is the case even if the Department did not fully comply with the services requirement.[11]

Here, the court found that "[t]he father's criminal behavior is not likely to be remedied in the child's foreseeable future; no remedial services are available to remedy the father's criminal behavioral problems, nor his drug problems."[12] This finding is substantially supported by the record. George's IMU counselor testified that his early release date was June 2012, a year after the termination proceedings. George himself testified that it would take him six months to a year to be ready to parent J.B. As Division Three noted in In re Welfare of M.R.H., "[a] matter of months for young children is not within the foreseeable future to determine if there is sufficient time for a parent to remedy his or her parental deficiency."[13] Here, J.B.'s young age and the length of time George admits may exist before he can parent J.B. do not meet the "foreseeable future" requirement.

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[1] RCW 13.34.180(1)(d); Hall, 99 Wn.2d at 851; see also In re Dependency of T.R., 108 Wn. App. at 164 ("even where the State inexcusably fails to offer a service to a willing parent . . . termination is appropriate if the service would not have remedied the parent's deficiencies in the foreseeable future, which depends on the age of the child.").

[11] Hall, 99 Wn.2d at 850-51.

[12] Clerk's Papers at 30.

[13] 145 Wn. App. 10, 28, 188 P.3d 510 (2008).

Thus, substantial evidence supported the court's finding that services could not remedy George's parenting difficulties in the foreseeable future.

George argues that the Department did not comply with the requirements of RCW 13.34.136, and thus violated RCW 13.34.180(d), because it did not immediately inform the court of its inability to provide services to George. Under RCW 13.34.136(2)(b)(vi), the statute governing the permanency plan used during dependency, "[t]he supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community . . . . It shall report to the court if it is unable to provide such services . . . ." George argues that this statute requires the Department to inform the court of its inability to provide services, as soon as it has learned of this fact. But he cites no authority for the principle that it is not sufficient for the Department to notify the court—at the time of termination—that it could not provide services. This court will generally not consider arguments that are not supported by citations to relevant authority.[14]

Further, RCW 13.34.136(2)(b)(vi) does not provide a timeline for reporting of lack of services to the court. Thus, the plain reading of this statute does not support George's argument.

Finally, as the trial court found, "[t]here was no court hearing after DSHS learned that the father was unable to access services . . . . DSHS informed the

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[14] Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

trial court at the termination trial that the father was in IMU and that services were not available to him there . . . ."[15] This finding was supported by substantial evidence in the record. The social worker in J.B.'s case reported that the last court hearing prior to the termination happened a month before she was notified of the limited services in the IMU. Thus, the Department reported this lack of services to the court at the next possible opportunity and satisfied both RCW 13.34.136(2)(b)(vi) and 13.34.180(1)(d).

BEST INTEREST OF THE CHILD

George also argues that the trial court erred in finding that termination of HIS parental rights was in J.B.'s best interests. But he bases this argument entirely on his contention that the Department failed to meet the requirement of offering necessary services.

As we earlier concluded in this opinion, the court's finding that the Department complied with offering reasonable services and with reporting when those services were unavailable, is supported by substantial evidence in the record. And the record shows that, under the circumstances of this case, it is in J.B.'s best interest to have his status resolved now, not at some undetermined time in the future. The trial court properly decided that immediate termination of the parental relationship with George was in J.B.'s best interest.

We affirm the order of termination.

[15] Clerk's Papers at 29.

Cox, J.

WE CONCUR: