

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEVIONNA NICOLE LADD,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEVIN JERMAINE LADD,

Respondent-Appellant.

UNPUBLISHED
February 10, 2005

No. 256850
Saginaw Circuit Court
Family Division
LC No. 02-28156-NA

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g) and (h). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2002). At the adjudication hearing, the trial court found that there was a preponderance of evidence that respondent had never provided for the physical care of the child and had only provided minimal emotional and financial support. This situation continued throughout respondent's incarceration, thereby establishing the statutory grounds set forth in both MCL 712A.19b(3)(c)(i) and (g). Despite having over a year between the start of his incarceration and the time of his termination trial, respondent never finalized his proposed care plan that his wife care for the child during respondent's incarceration. According to information received by the FIA, respondent's wife refused to care for the child. However, respondent claimed at the permanency planning hearing that his wife had changed her mind and agreed to the care plan. But when later contacted by the FIA via a letter, respondent's wife gave no indication that she was now willing to be the child's caretaker. This lack of a viable care plan clearly and convincingly established respondent's continued failure to provide proper care and custody for the child. MCL 712A.19b(3)(h) was proven by respondent's own testimony that, although his early release date was in December 2004, his maximum release date was in October 2018, and that the actual release date was dependent upon the parole board. Based on the very possible situation that respondent could be imprisoned for a lengthy period of time because of his extensive criminal history, the trial court did not clearly err in finding that clear and convincing evidence established the two-year requirement of this statutory ground.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court referred to the child's young age and her need for security, safety, and continual care when it held that termination of respondent's parental rights was not contrary to the child's best interests. Specifically, the trial court noted that the child was at the age when "over the next several years" she would develop "all of her formative and life-enduring capacities." On appeal, respondent argues that this analysis failed to consider the value to the child of being raised and unconditionally loved by her biological father and his wife, and their children. Given the fact that respondent was incarcerated for an unknown period of time, and that respondent's wife was unwilling to care for the child, it was unlikely that the scenario envisioned by respondent would happen any time soon, if ever. Based on the whole record, the trial court did not clearly err in finding that termination was not contrary to the child's best interests.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Kathleen Jansen