

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LASYLVA MARIE PERCIE
MAE HICKS, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
September 26, 2006

Petitioner-Appellee,

v

SYLVESTER HICKS,

Respondent-Appellant.

No. 268530
Oakland Circuit Court
Family Division
LC No. 04-700953-NA

Before: Cavanagh, P.J., and Markey and Meter, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). Petitioner provided sufficient evidence that respondent abandoned his child for more than 91 days and did not seek custody during that time, under MCL 712A.19b(3)(a)(ii). Respondent stayed in Florida for almost a year, missing several court hearings. He knew he needed to submit negative drug screens and attend substance abuse counseling to regain visitation and custody; however, he made no effort to comply. He never claimed he was away because the family required his income; rather, he was avoiding arrest for drug possession. The lower court did not err when it found clear and convincing evidence of a statutory ground to terminate respondent's parental rights under MCL 712A.19b(3)(a)(ii).

We, therefore, need not decide whether petitioner also offered sufficient evidence of additional statutory grounds. However, the lower court did not err when it found clear and convincing evidence under MCL 712A.19b(3)(c)(i), (g), and (j), because respondent failed to address his likely substance abuse and his decision to carry illegal drugs with his child present. Respondent's argument under MCL 712A.19b(3)(c)(i) is based on an erroneous initial disposition date; the initial disposition actually occurred in March 2005.

Whenever a lower court finds a statutory ground for termination, it must terminate parental rights unless termination was clearly against the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). There is no specific burden on either party to present evidence of the child's best interests; rather, the trial court should weigh all evidence available. *Id.* at 354. There is no requirement that the lower court hold a separate hearing. The testimony and respondent's actions provided sufficient evidence for the lower court to find that termination was not clearly against the child's best interests.

The strength of the bond between the respondent and the child, the child's age, and the time she spent in the respondent's care are all relevant to the best interests decision. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001). Although the child likely formed a strong bond with respondent when he provided daytime care, she was only 18 months old when she last saw him. The child had a stable, appropriate home with her mother, but would still suffer from the inconsistency of a father who stayed away for a year because he was afraid of arrest and never made any effort to pursue visitation. The lower court did not err when it held that termination was not clearly against the child's best interests and terminated respondent's parental rights.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Patrick M. Meter