

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LAVONTE BRODIE, MARIAH
BRODIE, and LATASHA JEAN BRODIE,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NORVELL BRODIE,

Respondent-Appellant.

UNPUBLISHED

February 6, 2007

No. 272722

Ingham Circuit Court

Family Division

LC No. 00-052364-NA

Before: Sawyer, P.J., and Fitzgerald and Donofrio, JJ.

PER CURIAM.

Respondent father appeals as of right from the trial court order terminating his parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that petitioner established at least sections (c)(i) and (g) by clear and convincing evidence. MCR 3.977(J). The conditions leading to adjudication regarding respondent father were his absence from the children's lives and domestic violence against the children's mother. At the time of the termination trial, respondent father had been incarcerated for nearly eight months for domestic violence and expected to be incarcerated for another three months. Respondent father had not completed any domestic violence or anger management classes. The conditions leading to adjudication continued to exist.

Respondent father also failed to provide proper care and custody for his children because he was incarcerated and could not care for them. He testified that he would be able to care for them within six months of his release from prison, a total of nine months after the termination trial. The trial court did not clearly err in finding that respondent father would not be able to rectify the conditions leading to adjudication within a reasonable time or provide proper care and custody for the children where the children had already been out of the home for nearly two years and were very young. Waiting another nine months would not be reasonable considering the children's ages.

Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interest. *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000). The trial court did not clearly err in its best interests determination. Respondent father would be incarcerated for another three months and estimated that it would take an additional six months before he could care for the children. The children, who were five, three, and two years old, had already been in care for two years and needed stability and permanency. Despite respondent father's bond with them, the trial court did not clearly err in finding that their best interests did not preclude termination of their father's parental rights.

Affirmed.

/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio