

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEENON PAGE STUDER and
JADEN WAYNE STUDER, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GARY WAYNE STUDER II,

Respondent-Appellant.

UNPUBLISHED

March 13, 2007

No. 273395

Berrien Circuit Court

Family Division

LC No. 2006-000050-NA

Before: Servitto, P.J., and Talbot and Schuette, JJ.

MEMORANDUM.

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

Respondent contends that the statutory grounds for termination of his parental rights were not met by clear and convincing evidence. We disagree.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). The trial court's decision is reviewed under the clearly erroneous standard. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). Clear and convincing evidence of only one statutory ground is needed to support an order for termination of parental rights. *Id.*, at 678.

Evidence in this matter showed that the children had lived a chaotic, unstable life filled with drug abuse and violence while with their parents. The evidence showed that, most recently, respondent broke the glass out of the front door of the home where the children and their mother were and fired numerous rounds randomly throughout the house. Both children were thus in serious danger of being killed or injured due to respondent's actions. Respondent thereafter entered the home and shot the children's mother several times, as well as shooting the children's grandmother, who was also present in the home. The evidence showed that the eldest child (three years of age) was burned with the gun barrel when he tried to intervene while respondent

was shooting his mother. The child displayed obvious trauma after he saw respondent kill his mother and shoot his grandmother. Based on the above, the trial court did not clearly err in finding clear and convincing evidence that respondent caused physical injury to his child and that there was a reasonable likelihood that the children would suffer injury or abuse in the future if placed with respondent. MCL 712A.19b(3)(b)(i).

Additional evidence established that because of his severe cognitive and physical disabilities, respondent was not able to care for himself without a full-time caregiver. Based on respondent's severe cognitive and physical disabilities, the history of violence and drug use in the home, his admission that he had been a cocaine dealer, and the instability to which the children had been exposed, the trial court likewise did not clearly err in finding clear and convincing evidence that respondent had failed to provide proper care or custody for the children and that there was no reasonable expectation that he would be able to do so within a reasonable time. MCL 712A.19b(3)(g).

Finally, the record showed that respondent did not have the capacity to care for the children. He was not able to care for himself without a full-time caregiver, and he could not control his anger and violent tendencies. His conduct clearly demonstrated that there was a reasonable likelihood that the children would be harmed if they were returned to him. Thus, the court did not err in terminating respondent's parental rights under MCL 712A.19b(3)(j).

Affirmed.

/s/ Deborah A. Servitto
/s/ Michael J. Talbot
/s/ Bill Schuette