

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of D.M.<sup>1</sup> and T.M., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DONTA MCDONALD,

Respondent-Appellant,

and

TEYLA BROWN,

Respondent.

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UNPUBLISHED

May 22, 2003

No. 244103

Kent Circuit Court

Family Division

LC No. 98-001109

Before: Whitbeck, C.J., and White and Donofrio, JJ.

PER CURIAM.

Respondent-appellant, hereafter appellant, appeals as of right from the trial court order terminating his parental rights to the minor child, T.M., under MCL 712A.19b(3)(c)(i), (g), and (n). We affirm.

The appellant asserts that he was not the subject of the initial dispositional order and therefore a finding against him pursuant to MCL 712A.19b(3)(c)(i) is clearly erroneous. There were no conditions of adjudication alleged against appellant in the February 8, 2001, petition for temporary custody, but because the trial court's jurisdiction is tied to the children and not the parents, jurisdiction may be obtained by way of adjudication against only one parent. *In re CR*, 250 Mich App 185, 205; 646 NW2d 506 (2001).

Additional conditions of adjudication with respect to appellant were alleged in the March 1, 2002, termination petition. These conditions were appellant's incarceration at the time T.M. was made a temporary court ward, his criminal history, and his inability to comply with the

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<sup>1</sup> D.M. is not a chld of respondent-appellant. This appeal involves T.M. only.

parent-agency agreement because of his incarcerations. The trial court correctly considered only legally admissible evidence in support of the statutory subsections with respect to appellant in accord with MCR 5.974(E)(1).

The trial court did not clearly err in determining that clear and convincing evidence established at least one statutory ground for termination. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence showed that there was no reasonable expectation that appellant, released from prison only five months prior to the termination hearing, would be able to provide proper care and custody within a reasonable time.

Caseworker Stacey DeLong testified that, because of T.M.'s Reactive Attachment Disorder, which resulted in her inability to attach to or empathize with others, permanency was the ultimate factor in her life. T.M. required one-on-one supervision, weekly intensive therapy, and a caretaker who was stable, patient, and willing to go the extra mile.

Dr. Spahn, a licensed psychologist performed an assessment of appellant and testified that appellant had quite elevated generalized anxiety disorder and anti-social personality disorder. Appellant's narcissistic, sadistic, and negativistic patterns were also elevated. He had a history of poly-substance abuse. Dr. Spahn testified that, in the many termination cases in which he had testified, parents often demonstrated these same characteristics, which meant that they were people who did what they desired and did not want to be told what to do. It usually meant that, in regard to parenting, those parents considered their own needs and desires before the child's interests. Parents with these patterns and disorders would more likely than not relapse into substance abuse.

Appellant was given nearly a year to comply with the terms of the parent-agency agreement. Although his incarceration hindered his full compliance for several months, the evidence showed that, upon release from prison, appellant left Michigan for a time, once again used drugs, and did not make timely efforts to follow through with substance abuse counseling or therapy. The psychological evaluation showed that his prognosis for becoming a suitable parent was poor. Drug use was a violation of parole that had led to his re-incarceration in the past. The evidence was clear that there was no reasonable expectation that appellant would be able to provide proper care or custody for his child within a reasonable time.

Any error assigned by appellant in finding that MCL 712A.19b(3)(n)(ii) was grounds for terminating appellant's parental rights is harmless given the evidence that plainly established the other two statutory grounds. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Affirmed.

/s/ William C. Whitbeck

/s/ Helene N. White

/s/ Pat M. Donofrio