

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ARMOND VARECK
SHERMAN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WADE SHERMAN,

Respondent-Appellant,

and

BRIDGET SHERMAN,

Respondent.

UNPUBLISHED

March 18, 2004

No. 250792

Ingham Circuit Court

Family Division

LC No. 00-459541-NA

Before: Jansen, P.J., and Markey and Gage, JJ.

PER CURIUM.

Respondent-appellant appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i). We affirm.

This case involves a profoundly emotionally damaged youngster (d/o/b 8/3/97). The initial petition to assume jurisdiction over the child was filed in part based on allegations that respondent-appellant had smoked marijuana in front of the child, respondent-appellant washed the child's mouth out with soap as the child pleaded with him to stop, respondent-appellant hit the child with a block causing his mouth to bleed, respondent-appellant left the child with an individual who has had her parental rights terminated, the home condition was cluttered and dirty, and respondent-appellant does not properly supervise the child. Since being removed from respondent-appellant's custody, the child has exhibited severe emotional problems and has exhibited bizarre behavioral problems, such as smearing feces on the wall. Irrespective of and without determining the exact cause of the child's needs, the trial court found that even a parent with average parenting skills would have difficulty caring for this child.

Respondent-appellant argues that the trial court erroneously admitted hearsay evidence at the termination hearing. We disagree. Respondent-appellant improperly relies on MCR

3.977(F), which requires legally admissible evidence only when termination is sought on the basis of circumstances different from those that led to the original assumption of jurisdiction. *In re Gilliam*, 241 Mich App 133, 137; 613 NW2d 748 (2000). In this case, termination was sought under § 19b(3)(c)(i), based on respondent-appellant's failure to rectify the conditions that led to adjudication. Petitioner did not seek termination on the basis of new or different circumstances. Accordingly, MCR 3.977(F) did not apply. Instead, MCR 3.977(G)(2) permitted the trial court to consider any relevant and material evidence, including both oral and written reports. *In re Vasquez*, 199 Mich App 44, 50-51; 501 NW2d 231 (1993). Accordingly, the trial court did not abuse its discretion in admitting the oral and written reports from the child's doctors and caseworker in Alaska. *In re Hill*, 221 Mich App 683, 696; 562 NW2d 254 (1997).

Next, respondent-appellant argues that the trial court erred in terminating respondent-appellant's parental rights by not considering the corrective measures respondent-appellant took in order to keep his child. We find the trial court did not clearly err in determining that § 19b(3)(c)(i) was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant failed to adequately address the requirements of his parent-agency agreement. Moreover, the trial court found that respondent-appellant's testimony about overcoming his substance abuse problem was not credible. We find no error.

Further, contrary to respondent-appellant's assertion, we find the trial court did not err in its consideration of the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). It was appropriate for the court to consider the child's special needs when deciding the child's best interests. Because of those special needs, the child required a parent with exceptional skills. The court found that respondent-appellant lacked even average parenting skills, despite his participation in some services. The court was not required to reunite respondent-appellant with his child in order to determine that respondent-appellant's parenting skills were insufficient to properly address the child's needs. The court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ Kathleen Jansen

/s/ Jane E. Markey

/s/ Hilda R. Gage