

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of GABRIALE MARIE DAVIS,  
MEGAN LASH, and HANNAH ASHBAKER,  
Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JERRY E. MOORE,

Respondent-Appellant,

and

HEATHER OLIVIA LASH,

Respondent.

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UNPUBLISHED

May 24, 2005

No. 257909

Genesee Circuit Court

Family Division

LC No. 97-109153

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

PER CURIAM.

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

In October 2001, petitioner filed a petition seeking temporary custody of Gabriele and her sister Megan, alleging that the children's mother had failed to properly care for and protect the children. Both children were placed in respondent-appellant's care but removed in December 2001 based on allegations of substance abuse and neglect. Hannah, a third child born to the children's mother in May 2002, was placed in the court's custody after her birth. Petitioner filed a permanent custody petition in April 2003, seeking termination of respondent-appellant's parental rights under §§ 19b(3)(a)(ii), (c)(i), (g), and (j).

At the termination trial in August 2004, evidence was introduced that respondent-appellant had failed to substantially comply with his parent-agency agreement, which required

that he complete parenting classes, participate in substance abuse treatment, obtain and maintain housing, submit random drug screens, and visit the child. The caseworker noted that, since Gabriele had been in the court's custody, respondent-appellant had made two of twenty scheduled visits. His last contact with her prior to trial was in August 2003 when he sent her some cards.

At the time of trial, respondent-appellant was incarcerated in Illinois, serving a five-year sentence for receiving stolen goods. Respondent-appellant testified that his discharge date was in 2009, but he faced similar charges in Michigan once he finished his term in Illinois. Respondent-appellant wanted to grant guardianship of Gabriele to his sister, Lisa Moore. The caseworker testified that it was detrimental to Gabriele's well-being to be separated from her two siblings, and that Ms. Moore had not expressed a willingness to care for all three children until the termination trial. The caseworker also testified that Gabriele did not initially recall ever meeting Ms. Moore, who resided in California.

The trial court concluded that the evidence supported termination of respondent-appellant's parental rights under §§ 19b(3)(a)(ii), (c)(i), (g), and (h). It also rejected respondent-appellant's argument that it was in Gabriele's best interests to be placed in Ms. Moore's care rather than terminate his parental rights.

On appeal, respondent-appellant does not challenge termination of his parental rights under § 19b(3)(c)(i). Since only one statutory ground is required to justify termination of parental rights, § 19b(3)(c)(i) provides a statutory basis for termination of respondent-appellant's parental rights and supports the trial court's ruling. See *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Further, the evidence shows that the trial court did not clearly err in finding termination was appropriate under §§19b(3)(a)(ii) and (g). MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Although the trial court clearly erred in relying upon § 19b(3)(h) to support termination where the permanent custody petition did not seek termination under that section, this error was harmless in light of the other statutory grounds supporting termination. See *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Contrary to respondent-appellant's argument, the trial court was not required to place Gabriele with his proposed relative where it concluded that termination was in the child's best interests. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999). Thus, the trial court did not clearly err in terminating respondent-appellant's parental rights to Gabriele.

We affirm.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Patrick M. Meter