

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TERRY BLACKBURN, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
February 13, 2007

Petitioner-Appellee,

v

LAURIE BLACKBURN,

Respondent,

and

JUNE STANLEY PARSONS,

Respondent-Appellant.

No. 269829
Wayne Circuit Court
Family Division
LC No. 03-419461-NA

Before: Meter, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

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)(a)(ii), (c)(ii), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent-appellant's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant was informed that Terry was his child in 1997 and became subject to a child support order, but Terry's mother later told him that he was not Terry's father, and he did not pursue the issue of paternity. He accumulated \$17,000 in child support arrearages for Terry and \$60,000 for other children. Terry Blackburn was seven years old when this proceeding began and had never met respondent-appellant. He resided with his mother, Laurie Blackburn, who failed to prevent her husband from sexually abusing Terry and some of his half-siblings and was not able to provide proper care for her children.

Respondent-appellant was notified when this child protective proceeding commenced in May 2003, and he assumed custody of Terry from approximately August 2003 to August 2004. Respondent-appellant ensured Terry's continued therapy, engaged in family counseling with

Terry, and drove Terry eight hours round-trip for weekly visits with Laurie Blackburn at significant personal and financial expense. In August 2004, respondent-appellant relinquished custody of Terry because caring for him had become too personally and financially difficult, and Terry was placed with his maternal grandmother in the home where his half-siblings and Laurie Blackburn resided. Laurie Blackburn was in complete compliance with her parent agency agreement at that time, and the trial court allowed the transfer of custody. Respondent-appellant moved to Wayne County and resided close to Terry, but after February 2005 respondent-appellant did not communicate with or support Terry or maintain contact with the caseworker or counsel. Terry and his half-siblings were removed from Laurie Blackburn's home and placed in foster care in October 2005, and a termination hearing resulted in termination of respondent-appellant's and Laurie Blackburn's parental rights on April 3, 2006.

Subsections 19b(3)(g) and (j) were established by clear and convincing evidence. Proper care includes more than merely providing for a child's physical needs and includes long-term dedication to the child's best interests and placing the child's needs before the parent's. The evidence on the entire record showed that respondent-appellant's intentions toward Terry were good and that, on most occasions, he was employed, possessed suitable housing, and could learn to parent a child with Attention Deficit Hyperactivity Disorder. However, respondent-appellant's actions throughout the proceeding and his testimony at the termination hearing showed that he desired to parent Terry only if it did not unduly inconvenience him. Given respondent-appellant's lack of commitment during the three years of these proceedings, there was no reasonable expectation that respondent-appellant would be able to provide Terry with proper care within a reasonable time. Whether Terry would suffer serious physical injury in excess of ordinary childhood injury while in respondent-appellant's care remained speculative, but the evidence did show that respondent-appellant had already caused Terry distress by abandoning him and established the likelihood that Terry would suffer harm due to respondent-appellant's lack of long-term commitment to his needs and well-being.

Subsection 19b(3)(c)(ii) was also established by clear and convincing evidence. The additional condition leading to Terry's continued wardship in 2005 was a resumption of the lack of proper care that had existed in 2003. Although respondent-appellant's whereabouts were unknown when the children were removed from Laurie Blackburn, respondent-appellant was provided notice of Terry's lack of care in 2005 by service on his attorney, he had an opportunity to reestablish a relationship with Terry any time and had been previously been instructed to do so by the trial court, and hearings were held but respondent-appellant did not attend them. Ultimately, respondent-appellant caused and failed to rectify Terry's lack of care by failing to maintain contact with Terry, Laurie Blackburn, the caseworker, or his attorney in an effort to ensure Terry's well being.

Respondent-appellant argues on appeal that desertion under subsection 19b(3)(a)(ii) was not established because he had only relinquished custody of Terry after Laurie Blackburn was in compliance with her service plan and, although he had ceased communicating with and supporting Terry in February 2005, he sought custody once petitioner requested termination of parental rights. However, Laurie Blackburn's care did not relieve respondent-appellant from an obligation to contact and support Terry, and respondent-appellant's argument that he believed the child protective proceedings had been concluded is not persuasive. Respondent-appellant certainly did not wish Terry harm, but his belated desire to assume permanent custody of Terry

was specious in light of his failure to parent for longer than one year or otherwise have a relationship with Terry when he was afforded that opportunity.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly contrary to the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A bond was formed between Terry and respondent-appellant, but the strength of that bond suffered when respondent-appellant abandoned Terry. Terry's foster parent desired to adopt him. Terry deserved and needed a parent who was fully committed to caring for him, and even though respondent-appellant expressed good intentions, his performance clearly demonstrated that he desired to parent Terry only if no one else was available and only if it was not too difficult or inconvenient.

Affirmed.

/s/ Patrick M. Meter
/s/ Peter D. O'Connell
/s/ Alton T. Davis