

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEY TAYLOR and THOMAS
TAYLOR, JR., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

THOMAS TAYLOR, SR.,

Respondent-Appellant.

UNPUBLISHED

March 30, 2004

No. 250633

Allegan Circuit Court

Family Division

LC No. 01-028871-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(ii) and (g). We affirm.

I. FACTS

In March of 2001, Protective Services removed Ashley and Thomas Taylor, Jr. from their parent's care when Ashley reported that her mother's boyfriend had repeatedly sexually assaulted her and it was learned that respondent, their father, was on probation for possession of LSD, possession of marijuana, and absconding.

The children were placed in foster care and made temporary wards when their mother plead no contest to beating her son and it was learned that respondent was incarcerated for a probation violation.

On November 16, 2001, FIA filed a petition to terminate respondent's parental rights. At the hearing on November 18, 2002, the court only terminated the children's mother's parental rights. Since respondent had recently been released from jail, FIA recommended efforts be made at reunification.

After jail, respondent married and resided with Violet Blodgett and her two children. As part of the reunification, respondent was ordered to complete parenting classes, undergo a substance abuse assessment and psychological evaluation, submit to drug screens, and attend

visitation. Respondent completed the substance abuse assessment (that concluded respondent displayed a high probability of having a substance dependence disorder) but did not complete the psychological evaluation. Respondent refused to submit urine drops when requested but regularly attended parenting time.

As a result of incomplete compliance, a termination hearing was ultimately scheduled for July 24, 2003. In the interim, respondent was charged with possession of methamphetamine. He pleaded guilty and was sentenced on July 18, 2003 as a third habitual offender to 30 to 240 months' imprisonment.

At the hearing, respondent tried to justify his noncompliance and alternatively offered the testimony of his wife. She contended that she could provide a home for her and respondent's children until respondent was released from his incarceration. FIA rebutted that Mrs. Taylor was not a suitable alternative caregiver because she had been convicted of possession of methamphetamine and was currently serving two years' probation.

At the close of evidence, the court found that respondent had not sufficiently overcome his substance abuse problems to permit reunification and found it unlikely that respondent would resolve the problem within a reasonable time in order to provide permanency for his children. Therefore, the court entered an order terminating respondent's parental rights on July 25, 2003. Respondent now appeals as of right.

II. STANDARD OF REVIEW

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.911(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate respondent's parental rights, unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review for clear error the trial court's decision with regard to the child's best interests. *Id.* at 356-357.

III. ANALYSIS

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The "other condition" that caused the children to come within the court's jurisdiction was respondent's inability to provide proper care for his children because of his incarceration and substance abuse issues. These conditions had not been rectified at the time of termination, and there was not a reasonable likelihood that the conditions would be rectified within a reasonable time. Furthermore, the trial court did not err when it concluded that respondent's wife was not a suitable alternative caregiver. Violet Blodgett Taylor had, similarly to respondent, been convicted of possession of methamphetamine and was serving two years' probation. She clearly was not able to provide a permanent stable environment for respondent's children. Accordingly, the court did not err in finding that a statutory basis for termination of parental rights had been established.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette