

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JACOB MCNIEL, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHRISTOPHER M. MCNIEL,

Respondent-Appellant,

and

JANET WAGGONER,

Respondent.

UNPUBLISHED
November 9, 2004

No. 255169
Genesee Circuit Court
Family Division
LC No. 01-113770-NA

Before: Murray, P.J., and Sawyer and Smolenski, JJ.

MEMORANDUM.

Respondent-appellant appeals by right an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

The trial court did not clearly err in determining that a statutory ground had been proven by clear and convincing evidence or in its ruling regarding the best interests of the minor child. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). When this case first came to the attention of Protective Services, the small apartment in which respondent-appellant lived with his girlfriend and his two small children was so dirty and cluttered that it posed a danger to the children. The children were placed in foster care, and after more than a year, termination proceedings were instituted. In the interim, respondent-appellant underwent psychological testing, completed parenting and anger management classes, maintained steady employment and regularly visited his child. However, the condition of the apartment from which the children had been removed remained essentially unchanged. Evidence from two psychologists, Dr. Ruben and Dr. Sommerschild, as well as the testimony of FIA caseworkers Howard and Weaver, showed that respondent-appellant suffered from a serious character disorder, that he lacked impulse control, that his life was largely self-centered, and that he lacked empathy for his children. While it is true that respondent-appellant did complete FIA-sponsored programs in parenting and anger management and that he did visit the child regularly, it is also

true that he made no substantial progress toward resolving long-term problems. Further, the condition of the small apartment where respondent-appellant and his long-term girlfriend lived was a danger to children, and no effort to clean it had been made in the more than 2½ years this case was pending. Given the time that had passed, there was no reasonable likelihood of change in the situation.

The evidence also did not show that termination was not in the minor child's best interests. The apartment was too dangerous for any child to live, and given respondent-appellant's defiant attitude, it was not necessary that the FIA continue to offer services where no real progress had been made. Further, the trial court did not erroneously place a burden of proof on respondent-appellant regarding the best interests of the child but considered "all the evidence" presented to the court.

Affirmed.

/s/ Christopher M. Murray

/s/ David H. Sawyer

/s/ Michael R. Smolenski