STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JORDAN CORDELL JANOWIAK, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JASON JANOWIAK,

Respondent-Appellant.

UNPUBLISHED
August 21, 2007

No. 276061
Muskegon Circuit Court
Family Division
LC No. 05-034480-NA

Before: Bandstra, P.J., and Cavanagh and Jansen, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

To terminate parental rights, the trial court must find that at least one statutory ground for termination set forth in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours,* 459 Mich 624, 632-633; 593 NW2d 520 (1999). If the court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo,* 462 Mich 341, 353; 612 NW2d 407 (2000). This Court reviews the trial court's decision for clear error. *Id*. at 356-357; *In re Sours, supra* at 633. "To be clearly erroneous, a decision must strike us as more than just maybe or probably wrong . . . ." *Id*. (internal quotation marks and citations omitted).

With respect to § 19b(3)(g), the trial court did not clearly err in determining that respondent failed to provide proper care and custody for the child. Testimony established that respondent lacked employment, failed to pay court ordered child support, and continued to use marijuana and have domestic violence issues with the child's mother throughout the pendency of the proceedings. Respondent indicated that he did not believe that his continued use of marijuana was "a problem" or that it affected his ability to parent his child. Respondent repeatedly tested positive for marijuana and he admitted that he would test positive for marijuana on the day of the termination hearing. The police were summoned to respond to domestic violence incidents between respondent and the child's mother three times in the three weeks before the termination hearing. Given this evidence, we conclude that the court did not clearly

err in finding that there was no reasonable likelihood that respondent would be able to provide proper care and custody within a reasonable time considering the child's age. His testimony and behavior indicated that he was unwilling to forego usage of marijuana. Although he contended that he completed anger management classes as part of his probation for his domestic violence conviction, his turbulent relationship with the mother, the continued incidents requiring police involvement, the hostility displayed toward others, and the psychological evaluation indicated that he was not amenable to change.

Similarly, with respect to § 19b(3)(j), the trial court did not clearly err in determining that there was a reasonable likelihood that the child would be harmed if returned to respondent's home, given the ongoing issues of drug use and domestic violence as well as information contained in respondent's psychological evaluation.

Further, in light of respondent's continued usage of marijuana and volatile relationship with the child's mother, his lack of stable income, his hostile displays in front of the child, his request that the child deliver a rude message to his grandmother, and his unwillingness to change, termination of respondent's parental rights was not clearly contrary to the child's best interests. MCL 712A.19b(5).

We affirm.

/s/ Richard A. Bandstra
/s/ Mark J. Cavanagh
/s/ Kathleen Jansen