

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MAKAYLA DEMING, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

STEVEN DEMING,

Respondent-Appellant,

and

NICOLE MILLER,

Respondent.

UNPUBLISHED

January 8, 2009

No. 286709

Berrien Circuit Court

Family Division

LC No. 2006-000103-NA

Before: Murray, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right from the court order terminating his parental rights to the minor child upon the bases of MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

The trial court may terminate a parent's parental rights to a child if the court finds that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). "If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights..., unless the court finds that termination of parental rights to the child is clearly not in the child's best interests." MCL 712A.19b(5). The review for clear error applies to both the trial court's decision that a ground for termination of parental rights was proven by clear and convincing evidence and the court's ruling regarding the child's best interests. *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003).

Respondent argues that the termination was premature in that the petitioner focused on the problems faced by the child's mother for most of the proceeding, and respondent (who lived in Illinois) initially failed to realize the gravity of the situation. According to respondent, he demonstrated his serious desire to be reunited with the child when he participated in services for the last eight months of the proceeding, and he asks for at least an additional six months in which

to prove his ability to provide proper care for the child, who was almost three and a half years old at the time of the termination trial.

Although respondent claims he participated in services during the last eight months of the proceeding, he mischaracterizes the facts since it was not until two months before the final termination trial date that he started complying with the case service plan. Previously, he had only completed a psychological evaluation and then failed to follow through on any of its recommendations. For almost the entire year-and-a-half long proceeding, respondent delayed his start with services and visited the child about eight times. He also violated the court's order to stay away from the child's mother and continued to use alcohol and, on at least one occasion, cocaine. By the time of the termination trial, respondent had been in domestic violence counseling and substance abuse treatment for only two months, and the instructor of his substance abuse classes believed respondent needed to stay sober for a year before significant progress could be reported. Given this evidence, the trial court did not clearly err when it found that the adjudicating conditions of domestic violence and substance abuse would not be rectified within a reasonable time considering the child's young age. It also did not clearly err when it found that it was unreasonable to ask the child to wait another year while respondent attempted to address the obstacles to parenting the child. Lastly, the evidence was clear and convincing that respondent's serious issues and lack of parenting skills would place the child at risk of harm if she was returned to respondent's home. MCL 712A.19b(3)(c)(i), (g), and (j).

The trial court also did not clearly err in its best interests determination. Contrary to respondent's contention on appeal, it is well-established that there is no specific burden on either party to present evidence of the child's best interests; rather, the trial court should weigh all evidence available. *Trejo, supra* at 353-354. A review of the record indicated no evidence of a bond between respondent and the child, such that termination would be against her best interests.

Affirmed.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Kurtis T. Wilder