

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MAKALA TYLER SWINEHART
and RYAN PHONTO SWINEHART, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BRIAN SWINEHART,

Respondent-Appellant.

UNPUBLISHED

February 3, 2009

No. 286048

St. Joseph Circuit Court

Family Division

LC No. 06-001079-NA

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

PER CURIAM.

Respondent appeals as of right from an order that terminated his parental rights to the minor children pursuant to MCL 712A.19b(3)(g). We affirm.

Respondent first argues that the trial judge erred in failing to recuse himself when it was clear that the judge had a bias against respondent. Respondent failed to preserve the issue for appellate review because he did not move to disqualify the judge. *In re Schmeltzer*, 175 Mich App 666, 673; 438 NW2d 866 (1989). Nevertheless, we have reviewed the record and find that the trial judge's critical comments of respondent were well deserved. *Schellenberg v Rochester Lodge No 2225 of the Benevolent & Protective Order of Elks*, 228 Mich App 20, 39; 577 NW2d 163 (1998). The trial judge's decision to terminate respondent's parental rights was not the result of some personal animus against respondent; rather, it was based on respondent's failure to comply with services. Respondent remained steadfast in his refusal to take steps toward demonstrating himself as a suitable parent.

Respondent next argues that the trial court erred in terminating his parental rights because termination was clearly contrary to the children's best interests. We disagree. Respondent does not dispute that the statutory ground for termination was established by clear and convincing evidence. Having found the statutory ground for termination by clear and convincing evidence, the trial court was obligated to terminate respondent's parental rights unless it appeared that termination was clearly contrary to the children's best interests. Former MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent failed to acknowledge the trial court's authority. He did not believe he should have to participate in services because he was in jail when the children came into care. He failed to see how his incarceration was part of

what caused them to become temporary wards. Respondent did not believe he needed to prove himself to anyone. Given respondent's stubborn and steadfast refusal to acknowledge the court's authority or the need to participate in services, no additional amount of time would have helped to create a suitable situation for the children. The trial court did not err in its best-interests determination.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kathleen Jansen

/s/ Patrick M. Meter