

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A'CHANA E CHANTEL KING,
WHITNIE DENISE NELSON, WONNIE
LETRICE NELSON, WILLIE MARSHALL
NELSON, JR., and RAIJINELL ANGENETTE
NELSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILLIE M. NELSON,

Respondent-Appellant.

UNPUBLISHED

December 17, 2009

No. 291812

Wayne Circuit Court

Family Division

LC No. 06-455569-NA

Before: Meter, P.J., and Borrello and Shapiro, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

This protective proceeding started in June 2006 when the conditions of the family home were found to be inappropriate for the children, and there were allegations that respondent lacked provisions for the children and did not provide for their care. The initial court-ordered treatment plan included requirements that respondent complete parenting classes and counseling and obtain his G.E.D. After information was received that respondent used marijuana, the court added the requirement that respondent provide random drug screens and then later added the further requirement that he receive drug treatment. In March 2007, the fourth child was born and incorporated into the protective proceeding. By the time the youngest child was born in May 2008, petitioner had changed the permanency goal to termination.

At the first termination proceeding in September 2008, the trial court found that respondent had used marijuana throughout the pendency of the protective proceeding and was not in compliance with his treatment plan, thus providing sufficient evidence to terminate respondent's rights to the children. However, the court also found that respondent's lack of drug treatment caused termination to not be in the children's best interests, and therefore the court denied the request to terminate respondent's parental rights. It ordered that respondent receive intensive drug treatment at petitioner's expense, provide random drug screens, and participate

again with parenting classes. Despite being given this second chance, respondent made no progress with the treatment plan, and another supplemental petition seeking termination was filed. Respondent did not attend the second termination proceeding in March 2009, after which the court terminated his parental rights to the children.

The trial court's decision to terminate parental rights is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000); MCR 3.977(J).

Respondent argues that petitioner failed to make reasonable efforts to reunite him with his children. In general, when a child is removed from the custody of the parents, the petitioner is required to make reasonable efforts to rectify the conditions that led to the child's removal, to reunify the family, and to avoid termination of parental rights. *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). A review of the record shows that the foster care worker's efforts after the first termination trial included a referral in September 2008 for respondent to participate in counseling. She stated that respondent did not participate in therapy and that the case was "closed out." She also made a referral in October 2008 for respondent to attend parenting classes and therapy, but the case was closed because there was "[no] compliance." When she could not reach respondent on his cellular telephone, she sent a certified letter to him asking for his updated number. The certified letter was never signed for, although three attempts at delivery were made. The worker testified that she was not able to refer respondent for inpatient drug treatment, but she advised him where to go for that treatment. Respondent did not go. Although she had not visited respondent's housing since September 2008, the lack of a recent visit had no impact on respondent's opportunity to participate in the treatment plan. Finally, the foster care worker reported that respondent's visits with the youngest child, who was placed with her paternal grandparents, were regular; therefore, contrary to respondent's implication on appeal, the fact that the worker did not testify regarding an exact number of visitations was inconsequential.

Despite the foster care worker's efforts to facilitate reunification, respondent failed to sufficiently take advantage of the referred services. As noted, the parenting classes and counseling services to which he had been referred in September and October 2008 were terminated for noncompliance. Respondent also failed to maintain contact with the foster care worker, thereby making it impossible for him to provide random drug screens, and he failed to follow up on the foster care worker's suggestion regarding drug treatment. It had been the lack of drug treatment that caused the court to rule following the first termination trial that termination of respondent's parental rights was not in the children's best interests, and respondent's failure to pursue inpatient drug treatment after September 2008 provided clear and convincing evidence that continued services aimed at reunification were not warranted. The trial court did not clearly err when it found that petitioner provided sufficient services.

Affirmed.

/s/ Patrick M. Meter
/s/ Stephen L. Borrello
/s/ Douglas B. Shapiro