

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 14, 2012

In the Matter of N. S. JONES, Minor.

No. 305719
Wayne Circuit Court
Family Division
LC No. 09-489451-NA

Before: SERVITTO, P.J., and METER and FORT HOOD, JJ.

MEMORANDUM.

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

The trial court did not clearly err in finding that §§ 19b(3)(g) and (h) were both established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); MCR 3.977(H)(3)(a) and (K). The evidence showed that respondent had been incarcerated since the child was three months old. He left the child with the child's mother, who had problems caring for her children. When those problems came to light, respondent did not arrange for an alternate caretaker to prevent the child's placement in foster care and instead denied paternity of and responsibility for the child. Despite knowing that he might be the father of the child, respondent did nothing to prepare for fatherhood. He repeatedly violated prison rules, which caused him to spend a significant amount of time in segregation and prevented him from participating in services to prepare for reunification. At the time of termination, the mother's parental rights had been terminated, and respondent's earliest release date was almost two years away. Further, the trial court's finding that respondent was unlikely to be released when first eligible is not clearly erroneous in light of respondent's poor prison record. Respondent also would have to establish housing, find a source of income, and demonstrate an ability to take care of the child before he could be considered for placement. Although respondent suggested his mother as an interim caretaker, the foster-care worker was never able to contact her, and there was no evidence that she was willing to care for the child. The trial court did not clearly err in finding that there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time, or in finding that respondent's imprisonment would deprive the child of a normal home for a period exceeding two years. Because only one statutory ground for termination need be proven and grounds for termination were established under §§ 19b(3)(g) and (h), any error in relying on §§ 19b(3)(c)(i) and (j) as additional grounds for termination was harmless. *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002); *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Further, considering that respondent had never established a relationship with the child and would not be available to care for the child for another 21 months at the earliest, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); MCR 3.977(H)(3)(b).

Respondent's claim that he was not provided with reunification services is without merit. Petitioner is only required to provide reunification services to a "parent" and, for a man to be a parent, he must be "the father of the child as defined by MCR 3.903(A)(7)." MCR 3.903(A)(17). Until a putative father establishes legal paternity, he is not entitled to services. *In re LE*, 278 Mich App 1, 18-19; 747 NW2d 883 (2008). Respondent became the father on January 5, 2011, when the trial court determined that he had parental rights by declaring him to be the father. MCR 3.903(A)(7)(d). Petitioner established a service plan for respondent, but he was rarely available to participate in prison services because he was in and out of segregation due to his misconduct.

Affirmed.

/s/ Deborah A. Servitto
/s/ Patrick M. Meter
/s/ Karen M. Fort Hood