

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of SAMANTHA MARKS, KRISTEN  
MARKS and ALLISON MARKS, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JUDY GOULD,

Respondent-Appellant,

and

DALE MARKS,

Respondent.

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UNPUBLISHED

February 12, 1999

No. 208211

Jackson Juvenile Court

LC No. 84-014430 NA

Before: White, P.J., and Markman and Young, Jr., JJ.

PER CURIAM.

Respondent Judy Gould appeals by delayed leave granted the juvenile court's order terminating her parental rights to her three minor children pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), (g) and (j). We affirm.

Respondent is the biological mother of three children: Samantha, born May 25, 1989; and twins Kristen and Allison, born June 16, 1991. After marrying in May 1993, she was also the stepmother to her husband's three children: Kristin Gould, born October 28, 1982; Joshua Gould, born January 16, 1984 and James Gould, born November 28, 1984. All six children lived with respondent and her husband in a two-bedroom house. Although it appears that respondent's biological children were generally treated well, all six children were removed from the home when the Family Independence Agency (FIA) discovered that respondent and her husband had severely abused and neglected the Gould children.<sup>1</sup> The Gould children were not only forced to sleep in the basement, but

were locked there whenever they were not at school, upstairs cleaning or stealing on behalf of respondent and her husband. The Goulds were fed in the basement, if they received food at all, and Samantha Marks would sometimes sneak food to the basement or the Goulds would sneak upstairs to get food. Since there were no bathroom facilities in the basement, the children often had to use the woods when the basement door to the yard was open or else they used bottles or a bucket that their father and stepmother would sometimes leave in the basement. The children were forced to hide the bottles or face punishment. On one occasion, James was forced to drink some of the urine and then respondent dumped the urine on James' bed. Respondent then struck him all over his body with her fist. As punishment, the Goulds were also locked in a shed, sometimes in winter without adequate clothing, or handcuffed to a pole in the basement as long as overnight. Respondent also hit the Goulds with objects or forced the children to hit each other. The Goulds were allowed out of the basement in order to steal for their father and stepmother. They regularly were taken to stores by respondent and forced to steal gifts, toys, clothing, bikes, tools and craft items. They were also forced to lie to authorities to cover up their stealing, to qualify their family for SSI benefits and to cover up their abusive home life. As a result of the severity of the abuse and neglect, the FIA filed a petition for termination of parental rights without offering additional services to try to reunify the family.<sup>2</sup> Before termination, this family had taken advantage of numerous family services, beginning in 1984 when the FIA investigated allegations that the Gould's father was physically abusive. Since the Marks and Gould families merged in 1993, they had seen counselors on numerous occasions. Respondent and her husband worked with protective services, in-home service agencies, a family therapist and a psychologist, apparently to get help for the Gould children's "behavioral problems." However, because respondent and her husband had consistently failed to follow recommendations, the foster care worker in this case believed that none of these services had benefited the family and that further services would also not be beneficial.

According to Samantha Marks and a foster worker who worked with the twins, the Marks children were fully aware of the treatment suffered by the Gould children. Samantha stated that the Marks saw the Goulds get handcuffed and heard them yelling and crying when she knew that they were being hit with a board. The Marks knew that the Goulds were forced to steal things, and were often present while they stole things. After the children were removed, respondent told Samantha not to talk about these things. Although respondent visited her children after they were removed from her home, visitation with Samantha was stopped because she was afraid to visit her mother after she testified. On November 17, 1997, the trial court terminated respondent's parental rights to her three biological children.<sup>3</sup>

In this case, respondent argues that the trial court erred in terminating her parental rights when she did not abuse or neglect her own children and was not given an opportunity to prove her parenting skills without the Gould family. Although the severe abuse and neglect here was limited to the Gould children, we believe that it properly served as support for the termination of respondent's parental rights to her own children for two reasons. First, under the doctrine of anticipatory neglect or abuse, how a parent treats one child is probative of how that parent may treat other children. *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995). This Court held that the doctrine of anticipatory neglect is not limited to situations where a parent neglects or abuses her own children and applied it to provide evidence for termination of a parent's rights under § 19b(3)(g) in *In re Powers, supra* at 593. We

recognize that this doctrine is only a presumption that harm will occur in the future, and that an argument could be made in the instant case that respondent will not physically harm her own children based on the extreme difference in treatment that the Marks and Gould children received from respondent. However, ultimately we conclude that respondent's treatment of the Gould children in her care is relevant evidence of how respondent may be expected to care for her own children in the future. We believe that it is reasonable to assume that as the Marks children grow older, they may also test her parenting abilities, as do most children; respondent has clearly demonstrated that her response to problems is abuse and neglect. This conclusion is supported by the foster care worker's testimony that respondent's severe abuse was beyond the scope of treatment within a reasonable amount of time and that she feared that the Marks children would become respondent's target once the Gould children were gone.

Second, in our judgment, the negative impact on the Marks children of witnessing the neglect and abuse of the Gould children was abusive in itself. The Marks children were fully aware of respondent's treatment of the Goulds. The Marks children were seven and five years old when respondent's behavior showed them that it was acceptable to beat people, lock them up and treat them like prisoners, and steal. The younger children appeared confused when their foster parents paid for items on shopping trips, and Samantha was afraid to visit her mother after she testified about the abuse to the Gould children in direct contravention of respondent's command to stay silent. Although the Marks children were not physically abused, they did suffer through respondent's treatment of the children in her house and returning them to her care would be detrimental at least to their emotional well-being.

Thus, we find that the court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence pursuant to MCL 712A.19b(3)(g) and (j); MSA 27.3178(598.19b)(3)(g) and (j). MCR 5.974(I); *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997). Since only one statutory ground is required for termination and the juvenile court's decision to termination parental rights in this case is supported by two other statutory grounds, we need not determine whether the court's reliance on § 19b(3)(i) and (ii) was proper.<sup>4</sup> *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). In addition, respondent failed to make any attempt to show that termination of her parental rights was clearly not in her children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19B)(5); *Hall-Smith, supra* at 472-73. Thus, the juvenile court did not clearly err in terminating respondent's parental rights to her children. *Id.*

Affirmed.

/s/ Helene N. White

/s/ Stephen J. Markman

/s/ Robert P. Young, Jr.

<sup>1</sup> The juvenile court also terminated the parental rights of William Gould, father of the three Gould children, and Dale Marks, father of the three Marks children. They have not appealed this decision.

<sup>2</sup> Respondent was also convicted of receiving or concealing stolen property, three counts of child abuse and three counts of contributing to the delinquency of a minor in connection with the facts of this case. Her appeal is currently pending before this Court. We note that although respondent's incarceration for these crimes would likely have provided an additional and compelling basis for termination of her parental rights, she was convicted only after her parental rights were terminated. Thus, we do not address this issue further.

<sup>3</sup> The court terminated respondent's parental rights because the parent caused physical injury or abuse to the child or a sibling of the child and there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home, MCL 712A.19b(3)(b)(i); MSA 27.3178(598.19b)(3)(b)(i); the parent who had the opportunity to prevent the physical injury or abuse to the child or a sibling of the child failed to do so and there is a reasonable likelihood that the child will suffer injury or abuse in the future if placed with the parent, MCL 712A.19b(3)(b)(ii); MSA 27.3178(598.19b)(3)(b)(ii); the parent failed to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care within a reasonable time considering the age of the child, MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g); and there is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent, MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j).

<sup>4</sup> Section 19b(3)(b) provides that abuse of either the parent's child "or a sibling of the child" is grounds for termination of parental rights. In *In re Powers*, *supra* at 590-92, this Court held that termination of a parent's rights in regard to a sibling of an abused child was not available under § 19b(3)(b) when the respondent was not the parent or legally responsible for the child that he abused. Although we disagree that the statutory language requires that the respondent be the "parent" of both children, whether the word "sibling" includes step-siblings is susceptible to reasonable debate. On the one hand, the termination statute is to be liberally construed in order to protect children. On the other hand, the Legislature did not expressly include "step-siblings" or other additional language, such as "related by affinity," in the statutory language. See *People v Armstrong*, 212 Mich App 121, 122-29; 536 NW2d 789 (1995); MCL 400.57(1)(b); MSA 16.457(1)(b). In *In re Powers*, *supra* at 592, this Court urged the Legislature to consider amending § 19b(3)(b). We again urge the Legislature to make clear the effects of a parent's abuse of children other than the child at issue in a parental termination case.