

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CODY SERVICE, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JASON SERVICE and CARRIE SERVICE,

Respondents-Appellants.

UNPUBLISHED

December 16, 2004

No. 256037

Barry Circuit Court

Family Division

LC No. 04-006726-NA

Before: Meter, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

Respondents appeal as of right the trial court order terminating their parental rights to their minor child, Cody Service. Respondent Carrie Service's rights were terminated under MCL 712A.19b(3)(b)(i), (g), (j), (k)(iii), and (l). Respondent Jason Service's rights were terminated under MCL 712A.19b(3)(l). We affirm.

I. FACTS

Cody was removed at the hospital on January 12, 2004, two days after his birth. Previously, on June 27, 2002, respondents' parental rights to Cody's sibling, Taylor Service (d/o/b 5/4/01), were terminated because of physical abuse by respondent Carrie Service and failure to protect by respondent Jason Service. Taylor sustained four to five rib fractures, a broken clavicle, fractures to the metaphyses (ends) of the left femur and tibia, and a collection of blood in her chest or abdomen. She also had numerous unexplained bruises and was severely underweight. This Court affirmed the termination of respondents' parental rights to Taylor. *In the Matter of TMS., Minor*, unpublished per curiam opinion of the Court of Appeals, issued March 25, 2003 (Docket Nos. 242616, 242869). This Court affirmed the termination of respondent mother's parental rights to Taylor under MCL 712A.19b(3)(b)(i) and (j), and the termination of respondent father's parental rights to Taylor under MCL 712A.19b(3)(b)(ii) and (j).

II. STANDARD OF REVIEW

Respondents do not challenge the trial court's findings concerning the statutory grounds for termination of their parental rights to Cody, and we find no clear error concerning these findings. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re Powers*, 208 Mich App 582, 591-593; 528 NW2d 799 (1995); MCR 3.977(J).

Respondents' argument is with the trial court's findings regarding the best interests of the child. Once a statutory ground for termination has been established by clear and convincing evidence, the court must terminate parental rights unless termination clearly is not in the child's best interests. MCL 712A.19b(5); *Trejo, supra*, 462 Mich 353. The trial court's decision on the best interests question is reviewed for clear error. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *Trejo, supra*, 462 Mich 356-357.

III. ANALYSIS

We find no clear error in the trial court's best interests decision in the instant case. Factors mentioned by the trial court included (1) respondent Carrie Service's anxiety in the hospital while caring for Cody, which was reminiscent of her anxiety with Taylor, (2) respondent Carrie Service's flat affect with Cody, (3) testimony of Carrie Service's therapist, Faye Featherly, that Ms. Service was very frustrated and ill-equipped to care for a child, (4) respondent Carrie Service's failure to progress past the first step of criteria for admitting responsibility and devising a relapse safety plan, (5) respondent Carrie Service's lack of insight into the requirements of a safe environment for a very young child, (6) respondent Carrie Service's poor relationship with her family, (7) the conflicting statements made by respondent Carrie Service regarding the cause of Taylor's injuries and her responsibility therefore, (8) both respondents' problems with anger, (9) respondents' marriage, which occurred since the termination of their parental rights to Taylor, (10) both respondents' marginal bonding with Taylor, and (11) respondents' having the same support system now as they did when caring for Taylor. We agree with the trial court that these factors support a finding that termination of respondents' parental rights to Cody is not clearly contrary to Cody's best interests. Cody has special needs and is only slightly older than Taylor was when respondent mother abused her. The abuse of Taylor was very severe, occurred over a period of time, and was not noticed or prevented by respondent father. While respondents attended anger management and parenting classes and counseling, respondent mother's failure to progress sufficiently in counseling and to fully admit responsibility for Taylor's injuries, coupled with respondent father's need to work and to be away from the home for long periods of time, raise the distinct possibility that Cody will also suffer abuse if returned to respondents' home. Cody needs a permanent, safe, stable home that respondents are unable to provide. Thus, the trial court did not err in terminating respondents' parental rights to Cody.

Affirmed.

/s/ Patrick M. Meter

/s/ Kurtis T. Wilder

/s/ Bill Schuette