

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KIARA LAREESE ANDERSON,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
March 15, 2007

Petitioner-Appellee,

v

JOE ANDERSON,

Respondent-Appellant.

No. 272397
Wayne Circuit Court
Family Division
LC No. 06-453524

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

MEMORANDUM.

Respondent appeals as of right from the trial court's order assuming jurisdiction over his minor daughter, Kiara, pursuant to MCL 712A.2(b)(1). We reverse.

"We review the trial court's decision to exercise jurisdiction for clear error in light of the court's findings of fact." *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). "To properly exercise jurisdiction, the trial court must find that a statutory basis for jurisdiction exists." *Id.* "Jurisdiction must be established by a preponderance of the evidence." *Id.*

The trial court found that petitioner established jurisdiction under MCL 712A.2(b)(1), which provides, in pertinent part:

The court has the following authority and jurisdiction:

* * *

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his

or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. . . .

The trial court found that Kiara was subject to a substantial risk of harm to her mental well-being and assumed jurisdiction over her. However, there was little evidence to support the trial court's finding. The sum of the evidence regarding Kiara's mental well-being was respondent father's testimony that he thought counseling would help the situation and Kiara's testimony that she did not feel that she would be safe at respondent father's house and that she did not know if she would be beat again. We note, however, that the trial court explicitly found that no physical abuse occurred. Because there was very little evidence of any risk that Kiara's mental well-being would be harmed, the trial court clearly erred in finding that this ground for jurisdiction was established, even by the preponderance of the evidence standard.

Reversed.

/s/ Jessica R. Cooper
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter