

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAVIER CURRIE, DAVION
CURRIE, PARSHA CURIE, JAMESHA
McCOLOR, DEVIN CURRIE, IRREYONNA
CURRIE, DESMOND CURRIE, DEVANTE
CURRIE and DESTINY CURRIE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GLORIA R. CURRIE,

Respondent-Appellant,

and

COREY WASHINGTON, TOMMIE WOODS,
PHILLIP HOWARD, DOMINQUE PITTS, and
JIMMY DURHAM,

Respondents.

Before: Fitzgerald, P.J., and Murphy and Borrello, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to her nine children under MCL 712A.19b(3)(a)(i), (a)(ii), (b)(i), (b)(ii), (g), (j), (k)(i), (k)(iii), and (k)(iv). For the reasons set forth in this opinion, we affirm.

Respondent-appellant took one of her infant sons, whom was seven-weeks old, to a local hospital after noting that his leg was swollen. The child was subsequently transferred to Children's Hospital where he was found to have fractures to both legs and both arms and bleeding on his brain. The attending physician found that the injuries were caused by blunt trauma, were not accidental, and had been caused over a span of time. The trauma had also affected the minor's vision, leading to his diagnosis as legally blind with a poor prognosis of improving. Petitioner filed a petition seeking termination of respondent-appellant's parental rights to all nine minor children.

At trial, respondent-appellant's mother and three sisters testified that respondent-appellant had also mistreated two other children. Respondent-appellant's mother had cared for one of the children from the time she was eight months old until she was five years old and then periodically until the child was 13 years old. Respondent-appellant's sisters testified that, when the child was about 12 years old, respondent had hit her on the mouth for talking back, causing a cut on her lip. She also had bruises on her body. Respondent-appellant's sisters also testified that respondent-appellant did not properly care for another daughter, and they often found the child dirty with scratches and bruises on her face and body. Respondent-appellant told one sister that the girl was ugly and she hated the child. To punish her, respondent-appellant locked the child, who was a year old at the time, in a darkened room and refused to allow the other children to talk to her. One of respondent-appellant's sisters, Rachel Baker, took the daughter into her care from February to April 2006 and again from May 2006 and continuing when the court placed the child into her custody after the petition was filed. When the child came into Ms. Baker's care, she was dirty, dehydrated, full of bruises and scratches, and bald in spots on her head. Another sister cared for two other children for over five months after respondent-appellant admitted she could not care for them.

The court terminated respondent-appellant's parental rights under §§ 19b(3)(a)(i), (a)(ii), (b)(i), (b)(ii), (g), (j), (k)(i), (k)(iii), and (k)(iv). Only a single statutory ground needs to be proven in order to terminate parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

On appeal, respondent-appellant challenges the statutory grounds upon which her parental rights were terminated and the court's finding that termination was not contrary to the children's best interests. The evidence shows that the trial court clearly erred when it terminated respondent-appellant's parental rights under §§ 19b(3)(a)(i), (a)(ii), and (k)(i), all which require a showing that that respondent-appellant abandoned the children. Termination under § 19b(a)(i), which requires evidence that the parent is unidentifiable, could not be established in the instant case where respondent-appellant was clearly identified as mother to all nine children. Termination under § 19b(3)(a)(ii) requires evidence that the "parent has deserted the child for 91 or more days and has not sought custody of the child during that period." A parent's failure to make any substantial effort to visit or communicate with the child or seek custody of the child for a period in excess of the statutory period establishes desertion. See *In re TM*, 245 Mich App 181, 194; 628 NW2d 570 (2001); *In re Mayfield*, 198 Mich App 226; 497 NW2d 578 (1993). While there was evidence in the instant case that members of respondent-appellant's family had taken one or more of the children for extended periods of time, there was insufficient evidence that respondent-appellant had failed to make any substantial effort to visit or communicate with the child or seek custody of the child for a period in excess of 91 days. In the absence of such evidence, the trial court's reliance on § 19b(3)(a)(ii) was clearly erroneous. Similarly, the trial court clearly erred when it relied upon § 19b(k)(i), which requires clear and convincing evidence that the parent abused the child or sibling of the child and abandoned the child, where there was no evidence of abandonment.

Although the trial court clearly erred in relying upon §§ 19b(3)(a)(i), (a)(ii), and (k)(i), this error was harmless in light of the evidence supporting termination of respondent's parental rights under the other statutory grounds cited by the court. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Evidence of respondent-appellant's substantial physical

injuries to her infant son, physical neglect and emotional abuse of her daughters supported termination of respondent's parental rights to all nine children under 19b(3)(b)(i), (b)(ii), (g), (j), (k)(iii), and (k)(iv). MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ William B. Murphy
/s/ Stephen L. Borrello