

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

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In the Matter of YAHRAEL STURGIS, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER S. STEPHENS,

Respondent,

and

URIAN R. STURGIS,

Respondent-Appellant.

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In the Matter of YAHRAEL STURGIS, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER S. STEPHENS,

Respondent-Appellant,

and

URIAN R. STURGIS,

Respondent.

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

UNPUBLISHED

May 15, 2008

No. 280118

Wayne Circuit Court

Family Division

LC No. 04-435191-NA

No. 280119

Wayne Circuit Court

Family Division

LC No. 04-435191-NA

PER CURIAM.

In these consolidated appeals, respondents Urian Sturgis and Jennifer Stephens each appeal as of right from the trial court's order terminating their parental rights to the minor child, Yahrael Sturgis, under MCL 712A.19b(3)(b)(i), (b)(ii), (g), (j), and (k)(iii). We affirm.

In a prior appeal, this Court affirmed an order terminating Stephens's parental rights to three other children, Zavonte, Suave, and Raymoni, and terminating Sturgis's parental rights to Raymoni, principally because Sturgis physically abused Zavonte and Suave and Stephens failed to protect the children from that abuse. *In re Stephens*, unpublished opinion per curiam of the Court of Appeals, issued March 29, 2007 (Docket Nos. 271015 and 271016). The child in this case, Yahrael, was born while the proceedings involving the other children were pending.

On appeal, both respondents argue that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

The existence of a statutory ground for termination must be proven by clear and convincing evidence. MCR 3.977(F)(1)(b) and (G)(3); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). The trial court's findings of fact are reviewed for clear error and may be set aside only if the reviewing court is left with a definite and firm conviction that a mistake has been made. MCR 3.977(J); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Due regard is given to the trial court's special opportunity to judge the credibility of witnesses. *In re Miller*, *supra* at 337.

Initially, we note that the trial court did not distinguish between the statutory grounds for termination applicable to each respondent. No evidence was present to indicate that Stephens inflicted physical injury or abuse, battery, torture, or severe physical abuse on any of the children or that Sturgis failed to protect the children from abuse or injury inflicted by others. Rather, the evidence showed that Sturgis was responsible for the physical abuse directed toward Yahrael's siblings and that Stephens failed to protect the children from that abuse. Thus, it is evident that §§ (3)(b)(i) and (3)(k)(iii) are applicable only to Sturgis and that § (3)(b)(ii) applies only to Stephens.

Sturgis does not address the trial court's decision to terminate his parental rights under § 19b(3)(b)(i). Because only one statutory ground for termination need be proven by clear and convincing evidence, and because Sturgis does not address the merits of the trial court's determination that termination was appropriate under § 19b(3)(b)(i), appellate relief is not warranted with respect to the issue whether a statutory ground for termination was sufficiently established. *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (failure to address a necessary issue precludes appellate relief).

In any event, the trial court did not clearly err in finding that termination of Sturgis's parental rights was appropriate under § 19b(3)(b)(i). This Court determined in *In re Stephens*, *supra*, slip op at 5-6, that Sturgis caused physical injury or physical abuse of Yahrael's siblings, Zavonte and Suave. Further, there is a reasonable likelihood that Yahrael would suffer physical injury or abuse in the foreseeable future if placed in Sturgis's home. Sturgis continued to blame his inappropriate behavior on his upbringing and attempted to minimize what happened

previously. He also denied using some of the forms of punishment described by Zavonte and claimed that Zavonte slept in the basement because he wanted to. Sturgis admitted that Suave was seriously burned while in his care, but gave several explanations for how it happened, denied the severity of the burns, and continued to maintain that it was an accident. He never addressed the older injuries that were detected on Suave. He also never addressed the inappropriateness of potty training a child in a basement laundry tub. Additionally, his testimony denying criminal responsibility associated with his prior convictions for criminal sexual conduct, his lawsuits associated with these proceedings, and his accusations of corruption and racism demonstrate a pattern of blaming others rather than accepting responsibility for his actions. The trial did not clearly err in finding that there was a reasonable likelihood that Yahrael would be injured or abused in the foreseeable future if placed in Sturgis's home.

With regard to § 19b(3)(b)(ii), this Court determined in *In re Stephens, supra*, slip op at 5, that Stephens failed to protect Zavonte and Suave from physical injury and abuse inflicted by Sturgis. Further, there was a reasonable likelihood that Yahrael would suffer physical injury or abuse in the foreseeable future if placed in Stephens's home. Stephens echoed the excuses raised by Sturgis and minimized the wrongfulness of his actions. She described Sturgis's punitive behavior as helpful in controlling five-year-old Zavonte until Protective Services became involved. She continued to maintain that Suave was scalded accidentally, but gave at least four different versions of how this allegedly happened, including that Sturgis was out of the home or fell asleep at the computer while the water was running. Like Sturgis, she failed to address Suave's older injuries or the inappropriateness of potty training Suave in a basement laundry tub. Despite receiving services and therapy, Stephens was unable to give any concrete examples of how her decision-making skills had improved or how she had become more assertive, except to note that she did not have to ask permission to drive herself to work or pay household bills. The trial court did not clearly err in finding that termination of Stephens's parental rights was appropriate under § 19b(3)(b)(ii).

The trial court also did not clearly err in finding that §§ 19b(3)(g) and (j) were established by clear and convincing evidence with respect to both respondents. The evidence showed that Yahrael spent her first three weeks in the care of her paternal grandmother, whom Sturgis admitted was an alcoholic. Further, Sturgis continued to fail to accept responsibility for his prior abusive behavior and Stephens continued to minimize his culpability and make excuses for his behavior. Thus, there was a reasonable likelihood that Yahrael would be injured or abused if placed in the care of either respondent.

With regard to § 19b(3)(k)(iii), this Court determined in *In re Stephens, supra*, slip op at 5-6, that Sturgis's abuse of Yahrael's siblings included battering, torture, and other severe physical abuse. The trial court did not clearly err in finding that termination of Sturgis's parental rights was appropriate under § 19b(3)(k)(iii).

Both respondents also argue that termination of their parental rights was contrary to Yahrael's best interests. We disagree.

Once a statutory ground for termination is established, "the court shall order termination of parental rights . . . unless the court finds that termination . . . is clearly not in the child's best interests." MCL 712A.19b(5). That determination is made from evidence on the whole record

and is also reviewed for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Yahrael was placed in foster care shortly after her birth. Although there was evidence of a bond between the child and Stephens, that bond did not outweigh the danger that both respondents posed to the child. The evidence did not clearly show that termination of respondents' parental rights was not in Yahrael's best interests. Thus, the trial court did not err in terminating respondents' parental rights to the child.

Affirmed.

/s/ Donald S. Owens

/s/ Patrick M. Meter

/s/ Bill Schuette