

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ELIZABETH ALEXANDREA
BELONGIA, ROBIN OLIVIA BELONGIA, and
GENEVIEVE AMANDA LYNN ROSE
BELONGIA, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TAMMY LYNN BELONGIA and ROBERT
FRANK BELONGIA,

Respondents-Appellants.

UNPUBLISHED

May 15, 2008

No. 282178

Saginaw Circuit Court

Family Division

LC No. 07-030924-NA

Before: Jansen, P.J., and Zahra and Gleicher, JJ.

PER CURIAM.

Respondents appeal by right the family court's order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(iii) and (j). We affirm.

Respondents first argue that the family court violated their due process rights by exercising jurisdiction over the children without first determining whether reasonable efforts had been made to keep the family together. We disagree. Respondents failed to pursue a direct appeal of the family court's assertion of jurisdiction, and have therefore forfeited this issue. *In re Hatcher*, 443 Mich 426, 439-440; 505 NW2d 834 (1993). At any rate, we note that the family court properly exercised jurisdiction in this matter. The court determined by a preponderance of the evidence that a statutory ground for jurisdiction existed based on (1) respondents' admissions that they allowed a family member who had previously sexually molested the children to have contact with them again, and (2) evidence that respondents were living in a camper that was too small for the entire family. MCL 712A.2(b); see also *In re BZ*, 264 Mich App 286, 294-295; 690 NW2d 505 (2004). We perceive no error in the family court's exercise of jurisdiction over the minor children.

Respondents also argue that the family court clearly erred by terminating their parental rights. Again, we disagree. During their plea, respondents admitted that their cousin Jamie had sexually molested all three minor children. Respondent-mother was aware of abuse by Jamie

dating back several years, and she confirmed that neighbors had made allegations that Jamie was touching other children. Despite knowing what had happened, respondents took the girls to live with Jamie's mother after a fire destroyed their mobile home in 2005. Respondents claimed that Jamie no longer lived with his mother, but this claim was disputed by other evidence admitted below. The children explained that Jamie had one of three bedrooms and that they slept on the floor of the living room while their parents slept outside in a trailer. Incredibly, the children indicated that their father and Jamie remained friends.

This evidence clearly established that respondents did not understand the severity of the situation and that respondents were unconcerned for the safety their children. Two of the children indicated that they had been in contact with Jamie as late as 2006, and that he had abused them at that time. The children indicated that respondents had admonished them not to speak about the abuse or they would get in trouble. Respondents argue that the children are no longer at risk now that they have their own home and Jamie has been convicted of criminal sexual conduct. However, in light of respondents' complete failure to take responsibility for what happened to their children and their unexplainable behavior in maintaining a relationship with Jamie, the family court properly concluded that respondents did not understand how to keep their children safe from sexual predators.

The family court did not clearly err by finding that petitioner had proven MCL 712A.19b(3)(j)¹ by clear and convincing evidence. MCR 3.977(J). Nor did the family court err by finding that termination was not clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). Even though respondents loved the children and the children wanted to be with respondents, respondents had shown a pattern of failing to protect their children and there was a genuine danger of future abuse.

Affirmed.

/s/ Kathleen Jansen
/s/ Brian K. Zahra
/s/ Elizabeth L. Gleicher

¹ Termination is permitted pursuant to MCL 712A.19b(3)(b)(iii) if the child has suffered "physical injury or physical or sexual abuse," "[a] nonparent adult's act caused the physical injury or physical or sexual abuse," and the family court "finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home." Evidence in the record suggests that Jamie has now been convicted of criminal sexual conduct and sentenced to prison. On the basis of this evidence, respondents assert that the children are now safe and that there is no reasonable likelihood that the children will suffer further injury or abuse by Jamie in the future. Even assuming *arguendo* that termination was not proper under § 19b(3)(b)(iii), however, we conclude that the family court properly terminated respondents' parental rights under § 19b(3)(j). We need not address whether petitioner sufficiently proved § 19b(3)(b)(iii) because only one statutory ground is necessary in order to terminate parental rights. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).