

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYLER CAMILE ALFORD,
JOSHUA BRIAN ALFORD, JORDAN RIAN
ALFORD, and ZION JEWEL ALFORD, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CAMILLA ROSANN ALFORD,

Respondent-Appellant.

UNPUBLISHED

August 14, 2008

No. 282516

Oakland Circuit Court

Family Division

LC No. 05-709176-NA

Before: Davis, P.J., and Wilder and Borrello, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the children under MCL 712A.19b(3)(b)(i), (c)(i), (c)(ii), (g), and (j). We affirm.

This family came to petitioner's attention in June 2004 when Jordan, then two years old, fell out of a seventh-floor window. Respondent was separated from her husband, Brian Alford, at the time and had physical custody of the children. The couple was in the process of divorcing and relations between the two were strained. Petitioner investigated a complaint that respondent improperly supervised the children, substantiated the complaint, and assessed the case as low to moderate risk to the children. Although no petition was filed, petitioner referred respondent to services. Respondent failed to comply with these services. During the course of the summer, petitioner received additional complaints alleging that respondent had left the three youngest children in the care of Tyler, then nine years old. Because of these complaints and respondent's failure to comply with services, petitioner elevated the risk to the children too high and referred respondent to Families First, the most intensive services offered by protective services. Although respondent initially failed to comply with services, when she was once again referred she completed them, with workers praising respondent's cooperation and progress.

Petitioner planned to close the case, but on June 18, 2005, it received a complaint alleging that respondent had left Joshua, Jordan, and Zion at their paternal grandparents' home, where the children's father, Brian Alford, resided, without confirming that there was an adult there to care for the children. Respondent claimed that she was dropping the children off for a scheduled visit during the Father's Day weekend. Mr. Alford denied being aware of the drop-off

and stated that his brother and parents cared for the children until he returned home. On July 5, 2005, petitioner filed a petition to terminate respondent's parental rights, alleging that respondent had continued to fail to provide proper custody and care of the children despite her completion of the Families First program, and no additional services were available to her. Following trial on the petition, the court concluded that the evidence was insufficient to establish the statutory grounds for termination. However, the court found that the children came under its jurisdiction. The petition was amended to one for temporary wardship.

Respondent entered into a parent-agency agreement requiring that she (1) participate in counseling, (2) develop her parenting skills, (3) participate with Wrap Around, an in-home program to assist families with community services, (4) participate in the Family Group Decision Making program, an intensive home-based program to rectify the condition leading to the children's adjudication, specifically addressing the issue of improper supervision, (5) maintain housing, (6) maintain employment, and (7) maintain contact with petitioner. During the course of proceedings, respondent's compliance with her agreement was inconsistent. The court proceedings also reflected animosity between respondent and Mr. Alford. The court repeatedly cautioned both parties to be cooperative for the children's sake or face termination of parental rights.

From October 2006 to March 2007, petitioner received three referrals alleging that respondent had physically abused Tyler and Joshua. In April 2007, the children were removed from respondent's care. Joshua, Jordan, and Zion were placed with Mr. Alford. Tyler was placed in foster care. On June 26, 2007, petitioner filed a supplemental petition seeking termination of respondent's parental rights to all four children.

At trial on the petition, the caseworker testified that respondent had failed to substantially comply and benefit from services. Respondent's Wrap Around and Family Group Decision Making programs were terminated for noncompliance. The caseworker testified that respondent's compliance with counseling was minimal, with respondent blaming her situation on others and lacking insight into her role, but respondent's therapist testified at trial on respondent's behalf, stating that respondent was in compliance with her counseling program and progressing when it was terminated because of the filing of the termination petition. The focus of respondent's counseling sessions was her relationship with Mr. Alford, who she was divorcing, not her behavior with her children. Respondent did not complete parenting classes. She attended only one supervised visit after the children were removed from her care in April 2007, and her behavior at the visit was inappropriate, with respondent criticizing Joshua and loudly commenting that the situation was ridiculous. After the visit, she left a ten-minute tirade on the caseworker's voicemail in which she threatened the caseworker. Although respondent denied physically abusing the children, Joshua, when interviewed at Care House, told the worker that respondent had hit him on the lip, causing a cut, smacked him on the head, and thrown him against the wall. He also stated that respondent had hit him and Tyler with an extension cord, leaving big marks that looked like cuts, and had lifted him and Jordan by their necks, squeezing their necks. Respondent's mother and Tyler both testified at trial that respondent had never hit any of the children.

The trial court concluded that the evidence showed that respondent had not complied with, or benefited from, services provided to her over a three-year period. Consequently, respondent had failed to address the concerns that had resulted in the children's placement in the

court's care. The court also found that respondent had inappropriately physically disciplined the children, concluding that Tyler and respondent's mother were not credible witnesses. The court concluded that the evidence supported termination of respondent's parental rights under §§ 19b(3)(b)(i), (c)(i), (c)(ii), (g), and (j).

A best interests hearing followed. The caseworker, who testified that respondent had been offered all available services but had failed to benefit, was concerned that respondent lacked insight into the reasons the children came into the court's care. The foster care worker, who had spoken to the children, felt that termination was in their best interests, noting that Joshua, in particular, continued to have difficulties dealing with the abuse and neglect he suffered in respondent's care. Tyler testified that she loved respondent and wanted to live with her. Respondent testified that she had almost completed a set of parenting classes and learned from these classes that she needed to address concerns rather than avoid them. She indicated that she wanted the opportunity to show that she could care for the children.

The court concluded that respondent had failed to benefit from services in the past and questioned her claim that she was better prepared to care for the children after taking parenting classes following the termination trial, particularly in light of the finding in her updated psychological evaluation showed that she had regressed since a 2005 evaluation. The court concluded that termination was not contrary to the children's best interests and entered an order terminating respondent's parental rights.

The trial court did not clearly err in terminating respondent's parental rights under §§19b(3)(b)(i), (c)(i), (g), and (j). MCR 3.977(G)(3); MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). While the court clearly erred in relying on § 19b(3)(c)(ii) in support of termination, where there was no evidence that respondent had received recommendations or a reasonable opportunity to address the abuse allegations, this error was harmless in light of the evidence supporting termination under the other statutory grounds cited by the court. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Furthermore, the evidence did not show that termination of respondent's parental rights was contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). There was very little evidence of a bond between respondent and the three younger children, and the bond that existed between respondent and Tyler was unhealthy for the child. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Alton T. Davis
/s/ Kurtis T. Wilder
/s/ Stephen L. Borrello