

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LARON WILLIE BERNA
BOHANA, KIANTE' ROBIN ANDERSON, and
DESHAWN MAURICE GRAVES, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LATOYA G. BOHANA,

Respondent-Appellant,

and

KINTE ANDERSON,

Respondent.

In the Matter of KIANTE' ROBIN ANDERSON,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KINTE ANDERSON,

Respondent-Appellant,

and

LATOYA G. BOHANA,

Respondent.

UNPUBLISHED

October 21, 2008

No. 280750

Wayne Circuit Court

Family Division

LC No. 06-449540-NA

No. 282396

Wayne Circuit Court

Family Division

LC No. 06-449540-NA

Before: Wilder, P.J., and Jansen and Owens, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right the family court's order terminating their parental rights to their respective minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

To terminate parental rights, the petitioner must prove at least one of the statutory grounds for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the family court must terminate parental rights unless it finds that termination would be clearly contrary to the best interests of the children. *Id.* at 353; see also former MCL 712A.19b(5).¹ We review the family court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The condition that led to adjudication with respect to respondent-mother was respondent-mother's failure to provide proper care and custody for the children. The children were left alone and unsupervised on several different occasions. Respondent-mother acknowledged that she had agreed to attend parenting classes and therapy and that she had consented to a psychological evaluation. However, evidence revealed that respondent-mother did not comply with the agreement. We recognize that respondent-mother's infant daughter died in June 2006, which was obviously a devastating experience. Indeed, testimony revealed that respondent-mother was offered services to address her grief and the loss of her child, as well as to improve her parenting skills. But respondent-mother completely failed to take advantage of these services. This evidence supported the family court's determinations that the condition leading to adjudication continued to exist and that respondent-mother had failed to provide proper care for her children. Given the amount of time that respondent-mother had already been given to comply with the offered services and agreement, the family court did not clearly err by finding that there was no reasonable likelihood that the condition leading to adjudication would be rectified within a reasonable time. MCL 712A.19b(3)(c)(i). Nor did the family court err by finding that there was no reasonable expectation that respondent-mother would be able to provide proper care for the children within a reasonable time considering the children's ages. MCL 712A.19b(3)(g).²

¹ The Legislature has amended MCL 712A.19b(5), effective July 11, 2008. See 2008 PA 199. MCL 712A.19b(5) now provides that "[i]f the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights" However, the termination order at issue in this case was entered before this 2008 amendment took effect.

² In light of our conclusion that sufficient evidence supported the family court's findings under §§ 19b(3)(c)(i) and (g), we need not consider whether there was sufficient evidence to establish the statutory ground for termination contained in § 19b(3)(j). See *In re Powers*, 244 Mich App (continued...)

Respondent-father contends that there was no clear and convincing evidence that the conditions that led to adjudication continued to exist with respect to him. Respondent-father appears to be challenging the fact that he never made any admissions of failing to provide proper care. To the extent that respondent-father is contesting jurisdiction, he has forfeited this issue by failing to appeal the order establishing jurisdiction. *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005). Although the conditions leading to adjudication primarily involved respondent-mother, who admitted that she had left the children alone and without supervision, the petition also alleged (1) that respondent-father had not protected his child from the risk of harm posed by respondent-mother's actions, and (2) that respondent-father had not supported or provided a home for his child. On the record before us, we cannot conclude that the family court clearly erred by determining that respondent-father's failure to care and provide for his child was a condition that continued to exist at the time of termination. The family court did not clearly err by finding that the statutory ground for termination contained in MCL 712A.19b(3)(c)(i) had been proven with respect to respondent-father.

Respondent-father argues that there was no evidence that he failed to provide proper care and custody for his child, and that petitioner made little or no effort to assist him. Petitioner made reasonable efforts toward reunification by preparing a service plan and by offering services to respondent-father. However, the record establishes that respondent-father refused to participate in these services. Respondent-father's failure to comply with the treatment plan during the pendency of this case, including his failure to participate in parenting classes and therapy, supported the family court's finding that respondent-father had failed to provide proper care for his son and that there was no reasonable expectation that he would be able to do so within a reasonable time considering the child's age. MCL 712A.19b(3)(g).³

Furthermore, the evidence did not establish that termination of either respondent's parental rights would be clearly contrary to the best interests of the children. See former MCL 712A.19b(5). Respondent-mother argues that the record revealed that the children loved her and needed her for permanence and stability. Respondent-mother is correct in arguing that the children needed permanency and stability. However, she was not in a position to provide permanency and stability for her children. The Clinic for Child Study indicated that respondent-mother had difficulty bonding with her children, that she was unable to make healthy decisions, and that she was unable to provide a stable home environment. This evidence demonstrated that termination of respondent-mother's parental rights would not be clearly contrary to the children's best interests. With regard to respondent-father, testimony revealed that he did not regularly visit his son. Indeed, the CPS worker had never seen respondent-father interact with the child. The evidence did not establish that termination of respondent-father's parental rights would be clearly contrary to the child's best interests.

(...continued)

111, 118; 624 NW2d 472 (2000).

³ We need not consider whether there was sufficient evidence to establish the statutory ground for termination contained in § 19b(3)(j) with respect to respondent-father. See *In re Powers*, *supra* at 118.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Kathleen Jansen
/s/ Donald S. Owens