

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SIERRA TAYLOR, BRIANNA
TAYLOR, JASMINE TAYLOR, and ARIANA
TAYLOR, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BETHANY TAYLOR,

Respondent-Appellant,

and

DEON TAYLOR,

Respondent.

UNPUBLISHED
September 1, 2009

No. 290070
Berrien Circuit Court
Family Division
LC No. 2007-000117-NA

Before: Saad, C.J., and Whitbeck and Zahra, JJ.

PER CURIAM.

Respondent Bethany Taylor appeals as of right from the trial court's January 2009 order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (3)(g) (failure to provide proper care and custody), and (3)(j) (reasonable likelihood of harm if child is returned to parent). We affirm.

I. Basic Facts And Procedural History

According to the termination petition, the family has a long history with protective services involving allegations of neglect and unfit housing, dating back to 2001. The children had been removed from the home in August 2003, and returned in July 2004. At that time, they did not have adequate housing because raw sewage was flushing directly into the basement and because Taylor was not working. Taylor was referred to a parenting class, was required to obtain adequate housing and employment, referred to Spencer Carter for marital counseling because of domestic violence concerns, and referred for individual counseling.

The children did well in foster care the first time they were removed in 2003. At that time, Sierra Taylor was very afraid to go to visits and did not want to be left alone with the father, whom she said hit her with a blue bath brush. Neither of the older children were completely toilet trained when they were removed from the home in 2003. Sierra Taylor wet the bed every night, and Brianna “would defecate in strange places, trash cans, heating vents.” After being placed in foster care, in addition to earning a “100 night dry award,” the girls’ hygiene improved, they did better in school, and Sierra Taylor earned a citizenship award.

When the youngest child, Ariana Taylor, was born almost a year later in 2004, Taylor was still living in the same house where the older children had been removed, and the new baby was also taken into care. Former foster care specialist Eleanor Marquis testified that she made sure the family was offered “every service that we had available at that time.” The parents finally found a two-bedroom home that was not perfect, “but it did meet the basic community standard,” and the children were returned. When the children were returned home, Sierra Taylor and Brianna Taylor were excited, but the younger girls, Jasmine Taylor and Ariana Taylor, were very bonded to their foster parent and had a more difficult adjustment. Taylor had difficulty keeping the home clean, and it was often cluttered and very dirty. Even though Taylor did not work outside the home, and had no developmental delay, her explanation to the social worker “usually involved blaming someone else.” Taylor did not seem to function well when the father was not around. There were ongoing referrals for neglect and abuse, including physical abuse of the children and domestic violence.

The petition alleged that when the children were most recently removed in August 2007, Taylor and the father lacked regular employment, were not paying their bills, and were not keeping the home or the children clean. The Department of Human Services alleged that the two older children had missed more than 30 days of school during the 2006-2007 school year and had not been enrolled for the 2007-2008 year. The children were removed from the home after protective services received a complaint that the family was living in “deplorable” conditions in a roach- and flea-infested house. There were “dirty dishes stacked everywhere,” foul smells, and “trash strewn throughout the home,” and the children had what Taylor described as flea bites.

At a hearing in November 2007, protective services specialist Cindy Wallis testified that when she arrived at Taylor’s home in August 2007, “there were roaches everywhere on the walls, ceiling, floors. You could move – you know you had to keep moving to keep them from crawling on you.” Taylor told Wallis that she was a little behind in the rent, but that her electric bill was paid, and that the children were registered for school and needed their identification cards and uniforms, but would be ready for school when it opened. Wallis told Taylor to clean up the house, and she would return the following Tuesday morning, after Labor Day.

When Wallis returned the following Tuesday, she spoke to the father, who said he had been out of town helping someone move, but was now living there. Wallis stated that “the house was cleaner than what it was when I was there on Friday, but the roaches were still . . . crawling on the floors, walls, ceiling.” Although the house was no longer a safety risk, it was still “not at standard,” but Wallis could have arranged for services through Families First if they had been available. The father told Wallis that they were at least six months behind in their rent and “would be going to court soon” for eviction. The water was being shut off that day. The children were not in school because they did not have uniforms.

Wallis asked Taylor what her plan was if they were evicted, and Taylor said she did not have one. Wallis asked Taylor what she was doing that she “couldn’t get this stuff done,” and Taylor “said just stuff.” Home-based services were not immediately available, and because of the water shut-off and the pending eviction, Wallis talked to her supervisor and they “decided that we needed to go ahead and file the petition” for removal.

Taylor testified that the house was not normally in the condition that Wallis saw and that she cleaned her home “quite frequently.” The house was a mess because she had “three extra people,” an adult and two children, staying with her for about a month before Wallis came. Her brother also stayed at the house with his three kittens on weekends. Taylor stated that she had cleaned the house the day before, and that everything had been in place, and the floors and dishes were clean, but agreed that when Wallis came, the home was not in an appropriate condition. She explained that it was messed up by “children running in and out of the house, the kids being fed, laundry was being washed.” Taylor explained that they had lived in the house for 18 months, and she noticed the roaches after the first month. She had been fighting with the landlord about the bugs for the past two or three months, but nothing had been done. She had used a bug bomb the week before, and had been looking for other housing. Taylor testified that she had not been employed since 2004.

In December 2007, therapist Spencer Carter testified that he had been seeing both parents for the past year, working on their marital relationship and the father’s lack of commitment. The father had a longstanding cycle “where he goes and he comes and he goes and he comes again,” and the periods while he was gone were extremely stressful for Taylor. Taylor depended on the father for help and support, so, Carter explained, it was “extremely critical” that the father remain involved in the home “to give her that help, to give her that support as her mate, as her husband.” The father had expressed a desire and willingness to build a stronger marriage. Carter believed the reason for the father’s pattern of behavior was “purely Mr. Taylor’s own lack of maturity to embrace his responsibilities to the marriage and the home,” and testified that Taylor was “very forgiving, very willing to embrace her husband, very supportive, and has fully expressed her desire to have an ongoing relationship with Mr. Taylor.” The lack of stability in the marriage had “an impact on the children.” Carter had begun counseling one of the children, Brianna Taylor, regarding issues involving depression and self-esteem, but did not yet have “a handle” on her problems.

Counselor Kristen Chism counseled the minor child Sierra Taylor, and had counseled Brianna Taylor until she asked to be transferred to Carter, whom she knew. Thirteen-year-old Sierra Taylor was “very open, very friendly, very willing to participate.” Sierra Taylor seemed to have a mothering relationship with the two youngest children, “so that would cause some stress and that could be, you know, some of her depression, along with being removed from her parents.”

Chism explained that Brianna Taylor was not as receptive to counseling. She was “friendly when I first met her, but very attention seeking, very loud, disruptive, making sexually inappropriate jokes the first time I met her,” and was “very evasive just in general questioning.” Her dress, movement, and behavior were not sexually appropriate for a 12-year-old child. Brianna Taylor would not discuss what had been going on in the home, or what led to her removal, and “she would get loud and distractive while Sierra and I were speaking about those things.” Brianna Taylor was open and honest about her behavior problems at school, but “not

about her family or her past.” Chism explained that “children in general who are removed a second time have a much more difficult time trusting their parents that this would not occur again.” If they returned home, they most likely “will feel less secure with their parents if placed back. That feeling of, is this going to happen again.”

Chism had observed a visit between the children and their parents. According to Chism, Taylor

played with the two younger girls, Jasmine and Arianna the majority of the time. And [the father] and Sierra interacted with each other, talking, joking, laughing, seeming mostly like friends. And Brianna tried to involve herself as much as possible, but was not actively brought into any conversation by any of the parties. She definitely was forcing herself into the conversation and forcing herself into interactions with all of the people in the room.

Marquis, who previously worked with the family in 2003, was not surprised when another petition was filed to remove the children, and explained, “it seemed to be a pattern” . . . there’s a crisis, they’ll get a little better but then they go right back living in the same manner.” Marquis further stated:

And, you know, neglect, it’s not just a dirty house, you know, neglect goes into every aspect of children’s lives. It affects education. It affects, you know, medical appointments. It affects hygiene. It affects basic social skills, you know, things that, you know—you have to be able to learn these things to go out into the real world and be successful. When these girls were returned home, they were bright, they had good personalities, you know, they had a real chance to be successful. You know, now, a couple years later, Brianna’s, you know, developing these delinquent behaviors.

* * *

We have to think about these children and as I stated previously, this is affecting their lives and it’s affecting them and how they’re going to be productive adults. And what we want, you know, to see these—these girls to grow up into productive adults. And if we let this go one and on, you know, if we let the case draw on for another 12 months, you know, 15 months, well, how long—it might be too late by then, you know, to get these girls back on track so that they can be productive citizens.

Foster care specialist Paula LaQuerre testified that the requirements of the case service plan for both parents were “housing, employment, parenting skills, domestic relations, and resource availability management.” She testified in January 2008 that Taylor and her husband had moved at least four times since September 2007, and were currently living with friends. She understood that Taylor’s mother had passed away and left her a home, but that it was “in need of significant repair.” Taylor and her husband had not given LaQuerre a plan for what they were going to do about housing. Both parents were unemployed, and they missed a scheduled appointment with a program that helped people develop job skills. LaQuerre had provided them with Dial-A-Ride tokens so that they could go to interviews and fill out applications. Taylor had

an interview at Kentucky Fried Chicken but did not get the job, and LaQuerre did not know of any other applications or interviews that Taylor had. Taylor and her husband were attending counseling to strengthen their relationship, and Taylor was scheduled to graduate from parenting classes at the end of the month. Taylor had attended every parenting session.

LaQuerre testified that Sierra Taylor was the child most bonded to Taylor and the father, but had remarked that “she didn’t feel like her parents were trying as hard.” Ariana Taylor, the youngest, did not run up to Taylor and the father “or given them hugs or anything. She’s more into, you know, playing with the toys in the room.” Five-year-old Jasmine Taylor was “more excited to see her mom and dad,” and “Brianna [Taylor] could come or she could stay at home. She doesn’t really care either way.” LaQuerre believed that Taylor’s and the father’s parental rights should be terminated “because of the length of the time the children were in foster care before, the amount of services that were provided, the lack of benefit. I mean, there were services provided before that I can’t offer them now because the children have been re-removed. So I have less services to offer. It’s been four months no progress.” LaQuerre did not doubt that Taylor would do everything she was asked to do, but explained, “the follow through is there but the benefit is not there.” In light of their past history, even if Taylor and the father obtained housing and employment, LaQuerre “wouldn’t feel comfortable without seeing them be stable for a year because of the fact that this case—I mean, same issues are present as they were five years ago.” LaQuerre testified that, according to counselor Chism, Sierra and Brianna did not want to go home to Taylor and the father.

With respect to the period from March through May 2008, the hearing referee remarked that Taylor and the father were being “extremely cooperative in doing what they need to do, finishing up the parenting class, attending the Outreach counseling and then the family counseling with Brianna and Sierra and stepping up when there’s been school issues with Brianna and Sierra and in working with them. So there definitely has been some progress.” Taylor briefly found work in July 2008, as a telemarketer, but had lost the job by the end of August, when “she was terminated for not getting enough credit card sales.”

Nicole Mickam took over as foster care specialist on this case in August 2008. At the time of an October 2008 termination hearing, neither Taylor nor the father were working, they had no source of income, and they had no housing. Taylor visited the children regularly but, Mickam explained, “the main thing with [respondent] is that she doesn’t physically interact with the children.” She did take Ariana Taylor, who was potty training, to the bathroom, but interacted mostly with Sierra Taylor and left the younger girls to themselves. Taylor and the father also sometimes talked about inappropriate things, such as dating, and swore in the children’s presence. Mickam explained, “Jasmine and Arianna [sic] very much do not want to go home. They have expressed this to me, they have expressed this to [therapist] Janine Donarski, they’ve expressed this to their foster parents. When it comes to visits they don’t want to go. They want to leave before the visit is over.” Brianna Taylor displayed behavior problems, “acting out physically and verbally,” and was suspended from school. Mickam stated that Taylor and the father “know that they can have interactions via phone and mail with Brianna Taylor and they have not taken advantage of that.” Mickam “very much” felt that termination of parental rights was in the best interests of the children. She believed that the children had “minimal bonds” with their parents and, “whatever relationship they have they’re not happy with, with

their parents, and they're happy where they are.” According to Mickam, therapist Spencer Carter felt that there was “not much hope that issues can be resolved.”

Rather than render a decision, the hearing referee continued the case in order to give Taylor time to obtain housing and employment, explaining that she did not want to terminate parental rights because of an economic situation.

At the continued hearing on January 2009, Taylor testified that they had found a home, which, for a \$2,000 down payment, they would rent to own on a land contract, and they were waiting for the utilities to be turned on. She did not have a job. Taylor acknowledged that some of the windows in the house were broken, one ceiling was “coming apart,” there were some broken pipes, and she had no beds for the children. Taylor was pursuing a loan on the home. She felt that she and the father were making progress because they were “together. We’re standing beside each other. We’re not in two different houses.” Taylor believed that Sierra Taylor and Brianna Taylor would have further behavioral problems if her parental rights were terminated.

In a final supplemental report in January 2009, Mickam stated that “there has been no progress made by Deon and Bethany Taylor since the last hearing.” Taylor told Mickam that she was pursuing a loan with “Hilda” at her credit union and had forgotten the paperwork, but when Mickam called the credit union, no one remembered talking to Taylor and the employee named Hilda did not work in the loan department. When Mickam reported back to Taylor, Taylor said she must have misunderstood and that she lost the credit union papers. Sierra Taylor told Mickam that she did not believe it was in the best interests of Jasmine Taylor and Ariana Taylor to go home, and that she believed her parents were involved in criminal activities. Spencer Carter, who had worked with Taylor and the father since October 2007, said they were “really no closer to be able to provide a stable clean home for their kids.”

The trial court found that grounds for termination were established under MCL 712A.19b(3)(c)(i), (g), and (j), and that termination was in the children’s best interests.

II. Statutory Grounds For Termination

A. Standard Of Review

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence.¹ We review for clear error a trial court’s decision terminating parental rights.² A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction

¹ MCL 712A.19b(3); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999).

² MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *Sours*, *supra* at 633.

that a mistake has been made.³ We give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.⁴

B. Analysis

We conclude that the trial court did not clearly err in finding that statutory grounds for termination of Taylor's parental rights were established by clear and convincing evidence. The evidence showed a long history of neglect dating back to 2001. Taylor was provided with numerous services over the years but failed to demonstrate any lasting benefit from the services provided. She attended visits, but often did not interact with the children. At the time of the termination hearing, she was unemployed, lacked housing, and had made only minimal efforts to find a job. Because termination was appropriate under §§ 19b(3)(c)(i) and (g), it is unnecessary to determine whether termination was also warranted under § 19b(3)(j).⁵

III. Best Interests Determination

A. Standard Of Review

Once a petitioner has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds from evidence on the whole record that termination is clearly in the child's best interests, then the trial court shall order termination of parental rights.⁶ There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.⁷ We review the trial court's decision regarding the child's best interests for clear error.⁸

B. Analysis

The trial court acknowledged that there was a bond between the two older children and their parents, but found that it was a harmful bond. The trial court also found that the younger girls did not have a strong bond and that there was no evidence that the parents would be able to provide that "general basic need" to the children. The trial court noted that the parents could not provide an appropriate home for the children to live in. Considering that the children had been in and out of care several times and were in need of stability and emotional security, the trial court

³ *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

⁴ MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

⁵ *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

⁶ MCL 712A.19b(5); *Trejo*, *supra* at 350. We note that MCL 712A.19b(5) was recently amended such that the trial court must now find that termination of parental rights *is* in the child's best interests, 2008 PA 199, effective July 11, 2008, rather than finding that termination is *not* in the child's best interests.

⁷ *Trejo*, *supra* at 354.

⁸ *Id.* at 356-357.

did not clearly err in finding that termination of Taylor's parental rights was in the children's best interests.⁹

In sum, we conclude that the trial court did not err in terminating Taylor's parental rights to the child. Affirmed.

/s/ Henry William Saad
/s/ William C. Whitbeck
/s/ Brian K. Zahra

⁹ MCL 712A.19b(5); *Trejo, supra* at 356-357.