

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AUSTIN MICHEAL CURTIS,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JENNIFER ANNE CURTIS,

Respondent-Appellant,

and

SCOTT ARON MOREY,

Respondent.

UNPUBLISHED
September 22, 2009

No. 290228
St. Joseph Circuit Court
Family Division
LC No. 05-000173-NA

Before: Servitto, P.J., and Fitzgerald and Bandstra, JJ.

PER CURIAM.

Respondent Jennifer Ann Curtis appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996).

The condition that led to the adjudication was the unexplained presence of several bruises on the child's back and both sides of his face, which the trial court determined were caused by abuse. Respondent never admitted that she or her boyfriend caused the bruises. She claimed that the child received some of the bruises by falling off his bunk bed, which was inconsistent with the injuries depicted, but had no explanation for the remaining bruises. She later stated that the child may have received his other bruises when she was roughhousing with him. Respondent also asserted that she had no obligation to monitor the child's bruises and continued to deny picking the child up by the throat even though a witness, who the trial court found credible, testified to seeing her do so. Respondent also admitted having an anger management problem, but claimed that she had learned to control herself. Respondent was offered counseling, but

refused to address the underlying causes of her anger and violence in her own troubled childhood, or to work on breaking the pattern of abusive relationships. She also continued to reside with her boyfriend, despite her claims that he was domestically violent. The trial court did not clearly err in finding that the conditions that led to the adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time, considering the child's age, thereby justifying termination under § 19b(3)(c)(i).

With respect to § 19b(3)(g), the evidence showed that respondent failed to deal with the original charges of abuse, her anger management issues, and the underlying causes of her parenting problems. She continued to be dependent on others for transportation and housing, and she had recently moved back into the home of her boyfriend, whom she accused of domestic violence and who was the only other possible perpetrator of the child's injuries, knowing that he had not participated in services. She presented an excuse for every deficiency identified by the agency. The trial court did not clearly err in finding that respondent failed to provide proper care and custody, and that there was no reasonable expectation that she would be able to do so within a reasonable time, considering the child's age. Therefore, termination was appropriate under § 19b(3)(g).

The trial court also did not clearly err in finding that termination was proper under § 19b(3)(j). The evidence that respondent failed to deal with the original charges of abuse and the underlying causes of her parenting problems, and that she had moved back in with her boyfriend, whom she had accused of domestic violence, supports the trial court's reliance on that statutory ground.

Respondent further argues that termination of her parental rights was not in the child's best interests. "If 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 and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). The trial court's best interests determination is also reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We agree that the child's attachment to his foster parents is not a permissible consideration. *Fritts v Krugh*, 354 Mich 97, 115; 92 NW2d 604 (1958); *In re Foster*, 226 Mich App 348, 358; 573 NW2d 324 (1997). Additionally, it appears that the trial court did not properly apply the best interest standard when, instead of determining whether termination of respondent's parental rights was in the child's best interests, it stated that it could not find that returning the child to respondent's care was in the child's best interests. However, an error in applying the best interests test may be harmless under MCR 2.613(A) (an error in a trial court's ruling is not a ground for reversal unless failure to do so would be inconsistent with substantial justice). *In re Hansen*, ___ Mich App ___, ___ NW2d ___ (Docket No. 289903, issued July 21, 2009), slip op at 4. This Court in *In re Hansen* found that the trial court erred by not "affirmatively find[ing] that termination of respondent's parental rights would be in the child's best interests," but concluded that the error was harmless because "the record is replete with evidence that would justify that finding had the court applied the correct standard." *Id.*

The evidence in this case showed that respondent failed to deal with the original charges of abuse and the underlying causes of her parenting problems, failed to deal with her boyfriend's domestic violence, and remained dependent on others for housing and transportation. Further,

the evidence showed that respondent was not fully bonded with her child, who at age five had spent approximately half of his life in foster care, and that respondent had to be prompted to interact with him. The child no longer became upset when respondent missed visits. Evidence was also presented that the child needed stability, permanence, and consistency in an environment where fighting was not the norm, and that continued instability could lead to serious long-term consequences for his mental health. This evidence clearly shows that termination of respondent's parental rights was in the child's best interests. In light of this record, any error in the trial court's best interests analysis was harmless.

We affirm.

/s/ Deborah A. Servitto
/s/ E. Thomas Fitzgerald
/s/ Richard A. Bandstra