

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NYLA LAYTON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL FIELDS, SR.,

Respondent-Appellant.

UNPUBLISHED
November 5, 2009

No. 291410
St. Clair Circuit Court
Family Division
LC No. 09-000028-NA

Before: Stephens, P.J., and Cavanagh and Owens, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(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 legally admissible evidence. MCR 3.977(E)(3); *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008). Respondent broke the arm of the child's half-brother. Respondent had been beating that child with a belt and when the child tried to cover himself, respondent yanked his arm with such force that he caused a spiral fracture of the humerus. Respondent delayed seeking medical treatment for the child for several days. Later, the child revealed that respondent had also sexually abused him. Other evidence showed that respondent had physically abused the child in the past and had engaged in inappropriate touching with another child. In light of this evidence, the trial court did not clearly err in finding that it was reasonably likely that the child involved in this case would be abused if placed in respondent's home, thereby supporting termination under §§ 19b(3)(b)(i) and (j). In addition, the trial court did not clearly err in finding that, under the doctrine of anticipatory neglect, respondent's abuse of the child's sibling established that respondent would not be able to provide proper care and custody for the child at issue here, thereby justifying termination under § 19b(3)(g). *In re Powers*, 208 Mich App 582, 592-593; 528 NW2d 799 (1995).

Further, because the evidence showed that respondent was an abusive person who had little regard for the welfare of children in his care, the trial court did not clearly err in finding that termination of his parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Mark J. Cavanagh

/s/ Donald S. Owens