

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RAYANAH KEMP, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TRACY DIENE KEMP, a/k/a TRACY DIANA
KEMP,

Respondent-Appellant.

UNPUBLISHED

May 25, 2010

No. 293114

Wayne Circuit Court

Family Division

LC No. 97-352657

Before: SAAD, P.J., and HOEKSTRA and SERVITTO, JJ.

PER CURIAM.

Respondent appeals the trial court's order that terminated her parental rights to the minor child, Rayanah, pursuant to MCL 712A.19b(3)(g), (i), (j), and (l). For the reasons set forth below, we affirm.

Petitioner sought termination of respondent's parental rights at the initial disposition, and respondent contends that the trial court erred when it assumed jurisdiction over Rayanah pursuant to MCL 712A.2(b). For a trial court to gain jurisdiction over a child, the fact finder must find by a preponderance of the evidence that the child comes within MCL 712A.2(b). We review a trial court's decision regarding jurisdiction for clear error in light of the trial court's findings of fact. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). Because we find that the trial court's assumption of jurisdiction was supported by a preponderance of the evidence, we find no error.

At the time the petition was filed, respondent showed little capacity for parenting a child. Respondent had unresolved mental health issues, she lacked suitable housing, she had an unstable lifestyle, and she depended upon her family to meet many of her own needs. More significantly, however, respondent's parental rights to nine other children were terminated in the preceding ten years based on findings of abuse and neglect. During those proceedings, respondent failed to make progress toward improving her parenting skills. Under the doctrine of anticipatory neglect, a child may come within the jurisdiction of the court solely on the basis of a parent's treatment of another child. Abuse or neglect of the subsequent child is not a prerequisite for jurisdiction of that child and application of the doctrine of anticipatory neglect. *In re Gazella*, 264 Mich App 668, 680-681; 692 NW2d 708 (2005), superseded in part on other

grounds in *In re Hansen*, 285 Mich App 158; 774 NW2d 698 (2009), lv gtd ___ Mich ___; 774 NW2d 322 (2009).

Based upon respondent's instability at the time of Rayanah's birth and her lengthy protective services history involving the termination of her parental rights to nine other children, a preponderance of the evidence established that Rayanah would be without proper custody and subject to a substantial risk of harm in her mother's care. MCL 712A.2(b). Therefore, the trial court did not clearly err when it ruled that there was a statutory basis for jurisdiction.

We further hold that the trial court did not err when it ruled that there existed clear and convincing evidence to support termination of respondent's parental rights pursuant to MCL 712A.19b(3)(g), (i), (j), and (l). MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). There was clear and convincing evidence that respondent could not provide proper care for her child and would be unable to do so within a reasonable time and that Rayanah would be harmed if returned to respondent's care. At the time of the termination hearing, respondent lacked suitable housing. A CPS investigator testified that respondent had not resolved any of the issues that had resulted in the termination of her parental rights to nine other children. Thus, the trial court properly concluded that, at the time of the termination hearing, respondent was unable to provide proper care and custody.

Moreover, petitioner established that there is no reasonable likelihood that respondent would be able to provide proper care and custody within a reasonable time. Respondent received services for over ten years, yet never demonstrated that she could properly parent any of her children for a sustained period of time. Clearly, respondent's past conduct is a predictor of what the future would hold for Rayanah. Respondent's lack of insight into the reasons her other nine children came into care was another indication of respondent's inability to make future progress. Respondent did not acknowledge the issues that resulted in the previous terminations and she did not take any responsibility for the injuries another daughter sustained as an infant that doctors found to be consistent with physical abuse. Respondent also blamed the foster mother for the termination of parental rights to two other children. Respondent's attempts to deflect blame and her lack of insight are continuing barriers to successful parenting; she cannot correct problems if she is unable or unwilling to acknowledge that problems exist. For these reasons, the trial court did not err when it concluded that there is no reasonable expectation that respondent will be able to provide proper care and custody of Rayanah within a reasonable time.¹

We reject respondent's claim that the trial court erred when it found that termination of her parental rights would be in Rayanah's best interests. Under MCL 712A.19b(5), as amended by the legislature effective July 11, 2008, the trial court must order termination of parental rights "[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 interest." An examining psychologist testified that respondent has limited nurturing skills and that her bond with Rayanah is also limited. The psychologist also found that respondent is immature, self-focused, and denies responsibility for

¹ Based upon the above analysis, we also conclude that the trial court did not err when it terminated respondent's parental rights pursuant to MCL 712.19b(3)(i), (j), and (l).

the nine previous terminations of her parental rights. Not only did evidence show that respondent lacks suitable housing and leads an unstable lifestyle, ample evidence showed that respondent's family provides for her needs as well as those of her children. This evidence established that termination of respondent's parental rights is in Rayanah's best interests.

Affirmed.

/s/ Henry William Saad

/s/ Joel P. Hoekstra

/s/ Deborah A. Servitto