

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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UNPUBLISHED  
September 28, 2010

In the Matter of E. BRIGGS, Minor.

No. 297149  
Arenac Circuit Court  
Family Division  
LC No. 08-010691-NA

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Before: MURPHY, C.J., and HOEKSTRA and STEPHENS, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to the children<sup>1</sup> pursuant to the statutory grounds set forth in MCL 712A.19b(3)(c)(ii), (g), and (j).<sup>2</sup> We affirm.

In the beginning of the child protective proceeding, the agency's main concern involved respondents' failure to supervise the children in order to prevent their sexual acting out and other unsafe behaviors. There were also issues with cleanliness of the house, head lice, and personal hygiene. However, after the children were adjudicated wards of the court and psychological

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<sup>1</sup> Respondent-father was the father to one child; the parental rights of the other children's fathers were also terminated but they did not appeal.

<sup>2</sup> The court's ruling is unclear with respect to whether it was also terminating the respondents' parental rights under MCL 712A.19b(3)(b)(ii) (failure to prevent physical or sexual abuse), a ground contained in the supplemental termination petition. It appears that the court discussed the issue of sexual abuse in the context of its ruling that MCL 712A.19b(3)(j) (likelihood of harm if child returned to parent) was proven, not as part of any ruling on § 19b(3)(b)(ii), which statutory ground is not addressed by respondents on appeal. For purposes of this appeal, we shall proceed as if § 19b(3)(b)(ii) was not one of the grounds relied on by the trial court.

evaluations were conducted on respondents, attention turned to respondents' propensities to minimize and/or deny problems. Over the course of the proceedings, respondents received parent aide services and individual counseling, and respondent-mother received psychiatric services. Despite these services, respondents made no progress in understanding the magnitude of the children's issues, as was demonstrated in their testimonies at the termination hearing, where they persisted in minimizing and/or denying the problems.<sup>3</sup> When making its bench ruling, the court stated:

[W]hat has dominated my thinking, most of the last day and a half, is [that respondents], basically, if you really get down to it, deny that there's really any problem here. They think the children should go home with them this afternoon, or should have gone home with them yesterday afternoon, because there isn't any problem in their view, or if there's a problem it's a very, very minor [one]. . . . The only ones who think there isn't any problem, or much of a problem, who testified here the last day and a half [are respondents]."

The trial court did not clearly err in determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evaluating psychologist testified that the minimization and/or denial of the children's needs resulted in those needs being unmet and the children suffering severe psychological trauma. As such, respondents' propensities to minimize and/or deny problems constituted "other conditions" that caused the children to come within the court's jurisdiction. The evidence clearly and convincingly established that these "other conditions" were not rectified by respondents after they received notice and a hearing and were given a reasonable opportunity to rectify them. Although respondents argue they should have been provided additional time and an opportunity to demonstrate the lessons they had learned, the evidence showed that respondents did not take full advantage of the services provided to them in that they resisted services before respondent-father started counseling in May of 2009. Lastly, given respondents' unfavorable psychological evaluations and lack of progress toward understanding the children's needs, the trial court did not clearly err when it found that there was no reasonable likelihood that the "other conditions" would be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(ii).

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<sup>3</sup> For example, respondents claimed not to have learned of the children's sexual acting out until around the time of the team decision meeting in November of 2008, but other evidence established that Children's Protective Services ("CPS") conducted investigations into that behavior in both 2005 and 2007 (although CPS did not substantiate those referrals, respondents were informed about the concerns). Respondents also improbably claimed that they had not noticed the soiled condition of a doll they had given as a gift to one of the children. Respondent-mother went so far as to accept no personal responsibility for any of the problems and attributed the children's severe psychological issues to the sexual abuse they had suffered at the hands of others.

Termination was also proper under MCL 712A.19b(3)(g). The evidence clearly and convincingly established past failures by respondents to provide proper care or custody for the children in that respondents failed to comprehend the severity of the children's issues from being sexually abused, failed to adequately supervise a child who had developmental delays, failed to supervise the children in general, and had problems with cleanliness in general. In addition, respondent-mother stopped using her psychiatric medications appropriately. The evidence also was sufficient for the court to find that there was no reasonable expectation that respondents would be able to provide proper care and custody within a reasonable time considering the children's ages. Although there had been some progress in that the family home was cleaned up and respondent-mother's medications were working, this progress did not involve the main obstacle faced by respondents, namely, their propensities to minimize and/or deny problems. The children's psychological needs were great and they were in immediate need of a caretaker who understood those needs. The trial court did not clearly err when it found that the progress made by respondents was insufficient and the rate of progress was too slow.

Respondents' minimization and/or denial of the children's psychological needs meant that it was unlikely respondents would do the work necessary to keep the children safe from each other's sexual acting out and dangerous tendencies and would also exacerbate the children's problems.<sup>4</sup> Therefore, the trial court did not clearly err when it found a reasonable likelihood that the children would be harmed if returned to respondents' care. MCL 712A.19b(3)(j).<sup>5</sup>

Finally, the trial court did not clearly err in its determination regarding the children's best interests. MCL 712A.19b(5); *Trejo*, 462 Mich at 353. The court made findings of fact when it noted respondent-father's propensity to deny problems and respondent-mother's extreme limitations while ruling that termination was in the children's best interests. This determination was supported by the evidence available in "the whole record" (i.e., specific best interests evidence is not required). The children all had severe psychological issues. One was in a foster home that specialized in working with boys with sexual abuse issues; another had been briefly hospitalized in a psychiatric unit in order to stabilize his aggressive behaviors; and the two girls had severe feelings of victimization and vulnerability, with one of them being on medications for throwing horrendous fits. Given their severely damaged psychological conditions, the children

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<sup>4</sup> The evaluating psychologist testified that respondents' denial of the problems left the children on their own to deal with their problems so they acted out, which caused respondents to impose punitive measures against the acting out, which then exacerbated the children's already damaged psychological states.

<sup>5</sup> Respondents argue that it was an inaccurate statement for the court to find that they had the opportunity to prevent additional sexual abuse of the children but failed to do so, where the additional sexual abuse of the children in this case occurred when the children were in foster care. Regardless of the court's statement, there was more than enough other evidence, as indicated by the court, showing that the children would likely suffer harm if returned to respondents, given that respondents lacked the capacity to appreciate the danger the children posed to themselves and their siblings, as well as the extent of the emotional and psychological problems.

needed a caregiver who would pay attention to their issues rather than minimize and/or deny them. Furthermore, the children's relationship with respondents and one another was significantly troubled. One child harbored a lot of anger for respondent-father, another was angry about respondent-mother's refusal to acknowledge the neglect that had occurred, and an older child had sexually abused a younger sibling.

Affirmed.

/s/ William B. Murphy

/s/ Joel P. Hoekstra

/s/ Cynthia Diane Stephens