

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 14, 2010

In the Matter of JONES, Minors.

No. 297319
Wayne Circuit Court
Family Division
LC No. 05-445630

Before: JANSEN, P.J., and SAWYER and O'CONNELL, JJ.

PER CURIAM.

Respondent appeals by right the circuit court's order terminating her parental rights to minor children G.J. and J.J. under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent first argues that the circuit court erred by finding that the statutory bases for termination had been proven by clear and convincing evidence. We disagree. On appeal from termination of parental rights proceedings, this Court reviews the circuit court's findings under the clearly erroneous standard. MCR 3.977(K); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

Nude photos of the children were found on respondent's cell phone. During the pendency of the proceedings, respondent articulated many different versions of how these photos got onto her cell phone. In addition, she was untruthful and gave several inconsistent accounts of her employment, housing, and attendance at counseling. During a visitation, a man ran into the area where respondent was meeting the children and gave the children some candy. Respondent claimed that she did not know the man. However, the children reported that he was the same man who had done "bad things" and "nasty things" to them, and the same man who had taken "bad" pictures of them. The court found the testimony of the children to be more credible than respondent's testimony. We give due regard to the lower court's special opportunity to judge the credibility of the witnesses who appear before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

We disagree with respondent's argument that the terms "bad things" and "nasty things" are too vague to constitute a ground for termination and that the termination of her parental rights was therefore based on mere suggestion and innuendo. There was clear and convincing evidence of the nude photographs on respondent's cell phone, in addition to credible testimony from the children concerning the identity of the man who took the photos. According to the children, that same man had done something to them that they characterized as "bad" and "nasty." A more specific description was not required from the children in order to clearly establish that the man's

behavior was inappropriate and that respondent should have protected her children from any further contact with this man. It is often difficult for young children to give specific, precise, or detailed statements; but this fact alone does not discredit a child's statements or render them unworthy of belief. See, e.g., *People v Naugle*, 152 Mich App 227, 234 n 1; 393 NW2d 592 (1986).

The children were initially removed from respondent in August 2005. They were returned to respondent in April 2008, and the court dismissed jurisdiction in June 2008. Four months later, a petition was filed to terminate respondent's parental rights. The conditions that led to the second adjudication were that (1) respondent was homeless without employment or income, (2) nude pictures of the children were found on her cell phone with conflicting explanations, and (3) the children reported sexual abuse.

At the termination hearing, more than two years later, respondent remained homeless and unemployed. Although she recited a list of places where she had temporarily worked, she had not produced any legitimate proof of employment. She was still involved with the man who took the nude photographs of her daughters and who the children had accused of doing "nasty things" and "bad things" to them. Respondent continued to allow the man to be in the children's presence. Respondent also accused the children's caretaker of brainwashing them.

As the court properly determined, respondent's testimony was not credible. It was clear that the conditions that led to adjudication continued to exist and had not been resolved. After several years of services, counseling, and opportunities for improvement, there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the ages of the children and the children's time in foster care. The circuit court did not clearly err by finding that petitioner presented sufficient evidence to establish the ground for termination set forth in MCL 712A.19b(3)(c)(i).

Nor did the circuit court err by finding that petitioner presented sufficient evidence to establish the ground for termination set forth in MCL 712A.19b(3)(g). After almost five years of services and guidance for respondent, the children were still in foster care. Although she was given numerous opportunities to find housing and employment, respondent had failed to obtain either one by the time of the termination hearing. She had no home where she could care for her children and no income to provide for them. Respondent further demonstrated that she had not benefited from the services. She refused to comply with the treatment plan or cooperate with the case workers. She provided false information about her employment and housing status. We conclude that petitioner presented clear and convincing evidence to establish that respondent had failed to provide proper care and custody for her children and that she would not likely be able to do so within a reasonable time considering the children's ages.

Finally, we cannot conclude that the circuit court erred by finding that petitioner presented sufficient evidence to establish the ground for termination set forth in MCL 712A.19b(3)(j). Throughout the pendency of this case, respondent changed her story about the nude photos several times. Despite the credible statements from the children concerning the man who took these photos, at the termination hearing respondent was still telling various conflicting stories about how the pictures got onto her phone. Furthermore, respondent continued to accuse the caregiver of brainwashing her children and remained in contact with the man who had allegedly abused her daughters. At the time of termination respondent was still lying and still

placing her children in dangerous situations, including by exposing them to the possibility of further sexual abuse. Respondent had no home and no income. The facts demonstrated a reasonable likelihood, based on respondent's conduct, that the children would be harmed if they were returned to her care.

Respondent next argues that the circuit court clearly erred by finding that termination of her parental rights was in the children's best interests. We cannot agree. The circuit court's decision regarding the children's best interests is reviewed for clear error. MCR 3.977(K).

"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). Respondent contends that the circuit court did not make sufficient findings with regard to the children's best interests because the referee stated only one sentence. The "one sentence" finding to which respondent refers was, "I believe that it is in the best interests of these children to have permanency, stability, and to be in a home where they can be protected from now until adulthood when they can protect themselves." The referee added that the children had only been in respondent's care for a few months out of the preceding five years.

No additional findings were necessary in order to support the court's conclusion that termination was in the best interests of the children. In termination cases, a court need only make findings that are "[b]rief, definite, and pertinent." MCR 3.977(I)(1). Although the court's findings regarding the children's best interests were brief, the court properly determined, on the basis of the record evidence introduced by the parties, that the children needed permanency, stability, and to be in a home where they would be protected. We conclude that the court's findings in this regard were sufficient to satisfy the requirements of MCR 3.977(I)(1). The court did not clearly err by finding that termination was in the children's best interests.

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Peter D. O'Connell