

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 22, 2012

In the Matter of GILLIES/KACZOR, Minors.

No. 307757
Wayne Circuit Court
Family Division
LC No. 11-502631-NA

Before: RONAYNE KRAUSE, P.J., and SAAD and BORRELLO, JJ.

PER CURIAM.

In this child protective proceeding, respondent-mother S. Kaczor appeals as of right, pursuant to MCR 3.993(A)(1), from the trial court's order after a trial determining that the minor children were within the court's jurisdiction under MCL 712A.2(b) and making them temporary wards of the court. We affirm.

The trial court's decision to exercise jurisdiction is reviewed for clear error in light of the court's findings of fact. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *Id.* at 296-297.

The proceedings arose out of alleged sexual abuse perpetrated against one of respondent's daughters, KG, by respondent's then-husband, who was the father of respondent's other daughter, SK. Upon disclosure to her by KG, respondent immediately ordered her husband out of the home and changed the locks on the doors. However, respondent did not report the matter to the police, and instead she placed the burden on KG to advise her of what KG wanted her to do and encouraged KG to obtain counseling.¹ Furthermore, respondent subsequently allowed her husband and SK, who was then aged twelve, approximately the same age KG had been when respondent's husband abused her, to spend time unsupervised and together. Respondent did so despite her apparent recognition of his potentially dangerous character, as reflected by the fact that respondent and SK developed a "safety plan" that involved SK fighting

¹ Apparently, KG did not want respondent to report the matter to the police. Although respondent had formerly been a police officer some years previously, it was not established that she had a legal obligation subject to criminal sanctions for failing to report the abuse.

her husband off and calling respondent on her cell phone, which we find a highly unrealistic plan.

A court can exercise jurisdiction over a child under the age of 18 found within the county under the following circumstances:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. . . .

* * *

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, or other custodian, is an unfit place for the juvenile to live in. [MCL 712A.2(b).]

In short, § 2(b) grants the court jurisdiction over children under 18 years of age if the child's parent is neglectful as defined in § 2(b)(1) or has failed to provide a fit home as defined in § 2(b)(2). *In re AMB*, 248 Mich App 144, 167; 640 NW2d 262 (2001). The court can exercise jurisdiction when the fact finder determines by a preponderance of the evidence that the allegations in the petition establish that the children come within the statutory requirements of § 2(b). *In re Brock*, 442 Mich 101, 108-109; 499 NW2d 752 (1993); MCR 3.972(C)(1) and (E).

A parent's treatment of one child is probative of how he or she is likely to treat another child and is thus admissible and properly considered by the court. *In re Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993); *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Under the doctrine of anticipatory neglect or abuse, "[a] child may come within the jurisdiction of the court solely on the basis of a parent's treatment of another child." *In re Gazella*, 264 Mich App 668, 680; 692 NW2d 708 (2005). "Abuse or neglect of the second child is not a prerequisite for jurisdiction of that child and application of the doctrine of anticipatory neglect." *Id.* at 680-681. The trial court did not clearly err in finding that a preponderance of the evidence showed that respondent failed to provide proper care for SK. Under the doctrine of anticipatory neglect, the court could exercise jurisdiction over KG as well. The trial court did not clearly err in exercising jurisdiction over the children.

Affirmed.

/s/ Amy Ronayne Krause
/s/ Henry William Saad
/s/ Stephen L. Borrello