

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 19, 2012

In the Matter of WEBB, Minors.

No. 307988
Ingham Circuit Court
Family Division
LC No. 10-001289-NA
10-001290-NA

Before: BORRELLO, P.J., and O'CONNELL and TALBOT, JJ.

PER CURIAM.

Respondent J. Webb appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth in this opinion, we affirm.

The trial court did not clearly err in finding that §§ 19b(3)(c)(i) and (j) were both established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); MCR 3.977(H)(3)(a) and (K).

With respect to § 19b(3)(c)(i), respondent does not dispute that the conditions that led to the adjudication continued to exist. He contends only that the trial court erred in finding that the conditions were not likely to be rectified within a reasonable time. Respondent was a known sex offender who had sexually abused his two younger sisters when they were five and six years old. A sexual abuse risk assessment showed that respondent presented at least a moderate risk of re-offending and recommended counseling to address, among other things, “controlling sexual impulses, and cultivating healthier attitudes about sex[.]”¹ Respondent denied the need for such counseling and never engaged in it. Given respondent’s unwillingness to engage in therapy to address his child sexual abuse issues and his belief that he did not have any sexual abuse issues

¹ Dr. Heydrich, who performed the sexual abuse risk assessment, administered two different tests, the Vermont Assessment of Sexual Abuse Risk (Vermont test) and the Minnesota Sexual Offender Screening Tool (Minnesota test). According to Heydrich, on the Vermont test, respondent had a high risk of re-offending, whereas on the Minnesota test, respondent had a moderate risk of reoffending. Heydrich testified that the Minnesota test is “more accurate than the Vermont, because it has more dynamic components to it.” Hence, respondent was found to present *at least* a moderate risk of re-offending.

that needed to be addressed through therapy, the trial court did not clearly err in finding that the conditions that led to the adjudication were not likely to be rectified within a reasonable time given the ages of the children.

Respondent's reliance on *In re Mason*, 140 Mich App 734; 364 NW2d 301 (1985), is misplaced. In that case, where the respondent made "a legitimate effort to comply with [her] treatment program and to improve her ability to care for the child" by attending therapy regularly once a week for eight months and had invested in the therapy, this Court found that "the brief period of therapy involved in this case was insufficient to warrant a finding that respondent would be unable to make significant progress in the near future." *Id.* at 738. By contrast, respondent did not attend therapy regularly or invest in the process. He denied that he required counseling to address any child sexual abuse issues, refused to engage in counseling with Dr. Heydrich, and attended only four counseling sessions with another therapist to address issues unrelated to child sexual abuse. Furthermore, although Dr. Heydrich told respondent that his records from Maxey could have a profound effect on what treatment respondent would be required to attend, respondent either refused or failed to assist in retrieving those records. In sum, the record is devoid of any substantial facts from which we could conclude that respondent undertook meaningful measures to comply with his treatment program.

The trial court also did not clearly err in finding that § 19b(3)(j) was proven by clear and convincing evidence. Given the evidence that respondent was a known sex offender who sexually abused his two sisters when they were five and six years old, that a sexual abuse risk assessment showed that respondent presented at least a moderate risk of re-offending, and that respondent was unwilling to engage in recommended counseling to address, among other things, "controlling sexual impulses, and cultivating healthier attitudes about sex," the trial court did not clearly err in finding that the children, who were not that much younger than respondent's sisters when he abused them, were reasonably likely to be harmed if placed in respondent's home.

Finally, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357. The trial court found that despite any bond between respondent and the children, termination was in their best interests due to the risk of harm respondent presented. Given the evidence that respondent presented at least a moderate risk of re-offending and his resistance to therapy to address his child sexual abuse issues, that finding is not clearly erroneous.

Affirmed.

/s/ Stephen L. Borrello
/s/ Peter D. O'Connell
/s/ Michael J. Talbot