

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AMB and NMB, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

KATIE MICHALS,

Respondent-Appellant,

and

DARRYL BILLINGS,

Respondent.

UNPUBLISHED

June 21, 2002

No. 236087

Sanilac Circuit Court

Family Division

LC No. 00-033767-NA

Before: Holbrook, Jr., P.J., and Jansen and Wilder, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from a circuit court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b), (g) and (j). We affirm.

This matter came to petitioner's attention on November 2, 2000. Respondent, Danton Street and the respondent's children, ages 1 and 2, lived together. In late October 2000, respondent started a new job and Danton Street babysat the children while she was at work. After one such occasion, Street's sister, Jessica Street, noticed a bruise near the eye and across the nose of the two-year-old child. She asked respondent about the bruise and respondent told her that the child had crawled on top of a bar stool which fell over on the child. Then, on November 2, 2000, Jessica Street picked the children up to baby-sit them and noticed additional bruising on the two-year-old's face and diaper area, while the one year old child had a badly swollen finger and bruising on the palm. Several hours later Jessica Street called the police.

The children were taken to the hospital, where the examining physicians observed multiple, severe bruises on the two year old and concluded that the two year old was the victim of physical abuse and neglect (sexual abuse could not be ruled out), and that the bruising on the one year old was also indicative of physical abuse since the bruises were not typical for a child of

this age and clearly were not self induced. Protective Services was then contacted by the hospital. Before Protective Services arrived, respondent attempted to leave the hospital with the children but was prevented from driving away by one of the physicians, who used his vehicle to prevent respondent's vehicle from being able to leave the parking lot. The police were dispatched to the scene, and after the police chief explained to respondent that she needed to wait for Protective Services to arrive, respondent walked away from the hospital, leaving the car in the parking lot with the children inside.

The trial court entered an order taking temporary custody of the children on November 3, 2000, and began a preliminary hearing, which concluded on November 16, 2000 with respondent waiving the probable cause determination. The trial court referred the case to mediation, and after mediation attempts failed, on December 20, 2000, petitioner filed an amended petition seeking termination of respondent's parental rights at the initial disposition hearing. Before and while the dispositional hearing was conducted, petitioner provided supervised visitation to respondent, and respondent was urged to attend a 14-week parenting program. In addition, a psychological evaluation of respondent was completed.

During the dispositional hearing, the medical evidence established and the trial court found that both children had been subjected to significant physical injury that could have been but was not prevented by respondent. The trial court also found that Danton Street inflicted the injuries on the children, that respondent should have been aware that Street was inflicting these injuries, and that nevertheless, respondent continued the relationship with Street then and through the course of the proceedings. The trial court found, based on testimony from the psychologist who conducted the psychological evaluation of respondent, that respondent had a personality disorder which made her likely to be involved with relationships without evaluating the risks to herself or her children, and that she was not likely to protect her children without successful treatment of the disorder. The trial court also found that it would take at least a year to treat respondent, if she fully participated in her treatment and could be rehabilitated, and that it was reasonably likely that the children would suffer additional injury or abuse during this time if they remained in respondent's care. The trial court further found that even if respondent could be rehabilitated, i.e. respondent successfully took full advantage of all available intensive intervention services, the minimum one year timetable necessary to achieve this goal was unreasonable given the age of the children. Finally, the trial court found that termination of respondent's parental rights was not clearly not in the children's best interests. This appeal ensued.

We find that the trial court did not clearly err in finding that §§ 19b(3)(b)(ii), (b)(iii), (g) and (j) were each established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence supports the trial court's findings that respondent failed to protect her children from the abuse inflicted by Danton Street, and that respondent was continuing her relationship with Street at the time of the termination hearing, which would place the children at continued risk if they were in respondent's care. In addition, the evidence supports the trial court's additional finding that respondent had a personality disorder which contributed significantly to her failure to protect the children, that this personality disorder required, at a minimum, a year or more of intensive therapy, that respondent was not reasonably likely to protect her children from abuse without this intensive intervention, and that given the

age of the children, this minimum one year timetable for rehabilitation of respondent was unreasonable.

Finally, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000.) Accordingly, termination of respondent's parental rights was appropriate.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Kathleen Jansen

/s/ Kurtis T. Wilder