STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of TIFFANY ANMARIE HARRISON and ADISON CODY BRANDON ASHER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TABITHA ASHER,

Respondent-Appellant,

and

GLEN HARRISON,

Respondent.

UNPUBLISHED
June 3, 2004

No. 250219
Oakland Circuit Court
Family Division
LC No. 03-675794

Before: Owens, P.J., and Kelly and R. S. Gribbs*, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children. We affirm.

The trial court terminated respondent-appellant's parental rights under MCL 712A.19b(3)(b)(ii), (g) and (j). The evidence showed that respondent-appellant did not report or seek medical treatment for her three year old son, after her live-in partner (Tiffany's father, Glen Harrison) severely beat the child, while respondent-appellant was out of state, even though when she returned home, she found her son with open wounds that became infected. The agency filed a petition seeking termination of her parental rights seventeen days after the children's removal.

The evidence showed that respondent-appellant sided with her partner and was not cooperative with the agency. She did not complete her psychological evaluation. Respondent-appellant's partner was arrested and incarcerated on an unrelated matter prior to the initial

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

disposition. He was a fourth offender who faced an enhanced sentence, possibly life in prison, if convicted.

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). If at least one ground for termination is proven, the court shall terminate parental rights unless if finds that termination is clearly not in the best interests of the children. *Id.* at 353; MCR 3.977(J). This Court reviews the lower court's findings for clear error. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

We conclude that the evidence was sufficient to satisfy the statutory standard in subsection (g) by clear and convincing evidence. The testimony showed that respondent-appellant failed to provide proper care or custody and would not be able to provide such for the children within a reasonable time. Although there was no evidence that respondent-appellant participated in the physical abuse of Adison, and the record supports that the children were bonded to their mother and missed her, the testimony established that respondent-appellant failed to protect Adison from physical abuse by Harrison, which included being made to eat feces; that respondent-appellant continued her involvement and protection of Harrison despite his severe physical abuse of her son; and that she has limited intellectual capacity.

We note that medical records of Adison indicated he had multiple abrasions all over his body, some in various stages of healing, as well as a broken bone in his right hand and bruising of the right hand. Both children reported that Harrison had beaten Adison a lot of times, and that Harrison had made Adison eat feces a number of times. Adison's maternal grandmother reported that when the children were at her house eating, before the instant incident of severe abuse, Adison asked her if she was going to make him eat poop, like his "daddy" did. Respondent-appellant maintained contact with Harrison during much of the pendency of these proceedings and hid him in their home when the police arrived on the scene after the beating.

We note that under these circumstances, the FIA was warranted in concluding that efforts to rehabilitate would be futile. We conclude that the trial court did not clearly err in finding that the statutory ground for termination was proven by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We also conclude that the agency's immediate decision to seek termination of parental rights without attempting to reunify the family was not a violation of respondent-appellant's right to due process.

Affirmed.

/s/ Donald S. Owens
/s/ Kirsten Frank Kelly
/s/ Roman S. Gribbs