

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NAKAYLA FORD,
NEOSHUA KIERRA BUTLER, and
NOAH NAREEM BUTLER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHRISCILLION BUTLER,

Respondent-Appellant,

and

RONALD FORD, DEWAYNE HIGHTOWER,
and JOHNNY MURRAY,

Respondents.

UNPUBLISHED
November 18, 2004

No. 253785
Wayne Circuit Court
Family Division
LC No. 97-362166

Before: Borrello, P.J., and Murphy and Neff, JJ.

PER CURIAM.

Respondent-appellant appeals the trial court's order terminating her parental rights to the minor children, Neoshua and Noah Butler, under MCL 712A.19b(3)(c)(i), (g), and (j), and to Nakayla Ford under MCL 712A.19b(3)(a)(ii), (g), (i), and (j). We affirm.

The older children came to the court's attention through a Children's Protective Services (CPS) referral in 2001. The referral indicated that respondent-appellant had thrown one of the children into a chair, allowed one to play in a parking lot with traffic, and left one in a hallway unsupervised. The children were dirty and at least one was improperly dressed. Respondent-appellant cursed and acted hostile with the CPS worker and police who came to remove Noah. Later, she was rude, hostile, and uncooperative with caseworkers, the court-appointed special

advocate volunteer, a visitation observer, the court, and the referee. A third child, Nakayla, was born on June 26, 2003.

Respondent-appellant first contends that the trial court erred in suspending her visitation rights with Neoshua and Noah in February 2001. Respondent-appellant asserts that the suspension of parenting time violated MCL 712A.13a(11) and resulted in the breakdown of the bond between parent and child and wrongfully contributed to the termination of parental rights. MCL 712A.13a(11) and MCR 3.965(C)(6) permit the court to deny parenting time where it would be harmful to the children even if supervised. But MCL 712A.13a(11) provides an additional caveat that, if visitation is deemed harmful, “the court shall order the child to have a psychological evaluation or counseling, or both, . . . [and] [t]he court may suspend parenting time while the psychological evaluation or counseling is conducted.” In the present case, the referee noted respondent-appellant's hostile behavior and later found that her behavior posed a significant risk of harm to the children. While the referee did not order psychological evaluations or counseling, there was an appropriate basis to suspend parenting time, and any statutory violation was harmless and did not impact the subsequent order of termination. Considering that there still would have been a period of no parenting time even had evaluations and counseling been ordered, parenting time was suspended only for three months and was reinstated on May 18, 2001. There is no evidence that the suspension of parenting time interfered with the parent-child bond. Indeed, respondent-appellant herself failed to regularly exercise her parenting time after being allowed visitation. We find no basis for reversal.

Respondent-appellant next argues that the termination of her parental rights to the minor children was clear error. This Court reviews decisions to terminate parental rights for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). With respect to Nakayla, we question whether the record supports termination pursuant to MCL 712A.19b(3)(a)(ii) and (i). However, only one statutory ground need be proven by clear and convincing evidence to terminate parental rights. MCL 712A.19b(3); *Trejo, supra* at 351. There was no clear error in regard to the trial court's determination that there existed clear and convincing evidence to terminate respondent-appellant's parental rights to Nakayla under MCL 712A.19b(3)(g) and (j) and to Neoshua and Noah under MCL 712A.19b(3)(c)(i), (g), and (j). During the nearly three years Neoshua and Noah spent in foster care, respondent-appellant's behavior to caseworkers and court personnel did not improve. She failed to obtain court-ordered counseling until late in the case and then was not motivated and did not benefit from the four counseling sessions she attended. She also failed to visit the children regularly even when informed of the effects of her absence on Neoshua, who felt disappointed, upset, and angry when her mother did not visit. Respondent-appellant steadfastly refused to cooperate with workers or to work on her court-ordered treatment plan. Evidence of failure to substantially comply with such a plan is indicative of neglect and of significant risk of harm to the children's life, health, or mental well-being. MCR 3.976(E)(1); *Trejo, supra* at 346 n 3, 360-363. Pursuant to the doctrine of anticipatory neglect, respondent-appellant's neglect of Neoshua and Noah is also indicative of probable neglect of Nakayla. *In re Powers*, 208 Mich App 582, 588-589; 528 NW2d 799 (1995). The evidence sufficiently supported termination of respondent-appellant's parental rights to all three children under subsections (g) and (j) and to Neoshua and Noah under subsection (c)(i) as

well. Further, the evidence did not show that termination of parental rights was clearly not in the children's best interests. MCL 712A.19b(5).

Affirmed.

/s/ Stephen L. Borrello

/s/ William B. Murphy

/s/ Janet T. Neff