

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JUSTIN HANNA and KATHERN
HANNA, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WENDY HANNA,

Respondent-Appellant.

UNPUBLISHED

January 19, 2006

No. 263791

Jackson Circuit Court

Family Division

LC No. 03-003666-NA

Before: Bandstra, P.J., and Fitzgerald and White, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court's finding that the statutory grounds for termination were established by clear and convincing evidence was not clearly erroneous. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court's determination that the underlying conditions of adjudication—respondent's inability to care for the children because of mental instability and the uninhabitable condition of the home—continued to exist was not clearly erroneous. MCL 712A.19b(3)(c)(i). The psychological evaluations of respondent, although contradictory in some regards, consistently indicated that she suffers from a personality disorder. Certainly, a diagnosis of personality disorder does not by itself justify termination of parental rights. *In re Boursaw*, 239 Mich App 161; 170-174, 177; 607 NW2d 408 (1999); *In re Hulbert*, 186 Mich App 600, 602, 605; 465 NW2d 36 (1990). Here, however, the statutory grounds were established not only by testimony concerning respondent's mental condition and prognosis, but also by specific evidence that her patterns of behavior adversely affected the children and that she had not altered her harmful patterns of behavior. The evidence indicated that respondent has a history of unstable and brief relationships, including four marriages. During the pendency of this case, she began cohabitating with two different men, hastily entering each relationship. At one point, respondent moved approximately 200 miles away to live with an individual she had only known for one week. The doctor who performed respondent's psychological evaluation opined that the move

away from her children reflected poor judgment and a self-centered focus, and that it was more likely than not that she would continue in an unstable pattern of short-term relationships.

Throughout this matter, respondent has exhibited inappropriate interactions with the children despite extended therapy and having twice completed parenting classes. At the outset of the case, it was reported that respondent would talk to the children without looking at them and that she made poor choices during parenting time. She continued to have trouble controlling the children and would tell them not to act out, but fail to follow through on those instructions. Later, respondent continued to make inappropriate decisions, invading Justin's personal space when correcting him, and verbally correcting Kathern, but failing to explain what the child was doing wrong. Additionally, respondent gave presents to the children but would not allow the children to open them, set unnecessary limits on Kathern's play, and repeatedly chastised Justin for minor issues. Respondent's behaviors are harmful to the children—they exhibited extreme acting out during visitation and their behavior improved dramatically when visitation was suspended.

Respondent relies on the testimony of her therapist whom she had seen 16 times during one year. The therapist felt that respondent had gained insight and achieved personal growth that would positively affect her children, and that she should be given an opportunity to parent the children. However, the doctor who conducted respondent's psychological evaluation indicated that insight does not necessarily reflect growth and is worthless if it does not lead to a change in behavior. Additionally, the therapist never observed respondent with the children and did not seem concerned by respondent's poor choices. We are aware that caution must be applied when considering the judgments of experts with limited exposure to the parent or child in termination cases. See *In re JK*, 468 Mich 202, 212; 661 NW2d 216 (2003). But where the evidence indicated that respondent had not substantially altered her behaviors, the trial court was justified in giving more credence to the testimony of the doctor that conducted respondent's psychological evaluation than that of respondent's therapist. The trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i).

Respondent failed to provide proper care and custody for the children when she maintained an uninhabitable home and attempted suicide. MCL 712A.19b(3)(g). The same evidence indicating that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time equally supports the trial court's finding that respondent would not be able to provide proper care and custody for the children within a reasonable time. Additionally, we note that respondent depends on her current live-in partner for financial support, and has not demonstrated an ability to independently support the children. Respondent maintains that she has done everything requested of her, and a foster care worker testified that respondent performed almost all that had been asked of her. While a parent's compliance with a service agreement is evidence of her ability to provide proper care and custody, *JK, supra* at 214, benefiting from services is an inherent and necessary part of a service plan. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). Particularly regarding parenting skills, the evidence indicates that respondent has not sufficiently benefited from the services offered. Under these circumstances, we are not left with the impression that the trial court made a mistake by finding that respondent would be unable to provide proper care and custody for the children within a reasonable time considering their ages at the time of the

termination trial. The trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(g).

The same evidence establishing that the conditions of adjudication would not be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), and that respondent would be unable to provide proper care and custody for the minor children within a reasonable time, MCL 712A.19b(3)(g), also establishes that there is a reasonable likelihood that the children would be harmed if returned to her. MCL 712A.19b(3)(j). In particular, the extreme acting out of the children associated with visitation with respondent strongly suggests that her behavior is harmful to them, and psychological evidence indicated that respondent is likely to continue her pattern of multiple short-term relationships, which respondent herself admitted had been harmful to the children.

Finally, the trial court's determination that termination of respondent's parental rights was not clearly contrary to the best interests of the children, MCL 712A.19b(5), was not clearly erroneous.

We affirm.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Helene N. White