

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of IYANA ELIZABETH BAKER,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHELLE ANN GACH,

Respondent-Appellant.

UNPUBLISHED

January 8, 2008

No. 277928

Oakland Circuit Court

Family Division

LC No. 06-728394-NA

Before: Murray, P.J., and Hoekstra and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right the order terminating her parental rights to her minor child under MCL 712A.19b(3)(g), (j), and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). Respondent argues that prior terminations alone are insufficient to establish a statutory ground, citing *In re AH*, 245 Mich App 77; 627 NW2d 33 (2001), which held that MCL 722.638(1)(b)(i) required a petition only when there was also a risk of harm and MCL 722.638(2) required a termination petition only when the parent placed the child at an unreasonable risk of harm. The decision did not address the statutory ground for termination, MCL 712A.19b(3)(l), which expressly requires only a prior termination. Regardless, the lower court found a risk of harm when it took jurisdiction over the child, and it discussed the continuing risk of harm in its termination decision. The psychological evaluation, combined with respondent's history, supported the lower court's finding that respondent still did not fully recognize the risk the father posed and that, therefore, the baby would be at risk in her care.

The lower court did not err when it found clear and convincing evidence that respondent's rights to other children were terminated, MCL 712A.19b(3)(l); respondent was unable to provide proper care and custody in a reasonable time because she did not recognize the risk of harm posed by the father, MCL 712A.19b(3)(g); and the child was likely to be harmed if returned to her care, MCL 712A.19b(3)(j).

When a lower court finds a statutory ground for termination, it must terminate parental rights unless termination was clearly against the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). Respondent argues that termination was clearly against the child's interests because of the bond between her and the baby. She had custody for nearly five months and visited regularly after the child's removal, and the protective services worker and guardian ad litem testified that they were bonded. The bond was relevant to the lower court's analysis. See *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). However, the lower court did not err when it held that termination was not clearly against the child's interests because of the risk the child would be harmed.

Affirmed.

/s/ Christopher M. Murray

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder