STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CHASE MALIK STOKES,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LUCINDI MARIE WILBOURN,

Respondent-Appellant.

UNPUBLISHED
June 24, 2008

No. 283019
Oakland Circuit Court
Family Division
LC No. 07-735403-NA

Before: Meter, P.J., and Smolenski and Servitto, JJ.

PER CURIAM.

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

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). This Court reviews the trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *Sours, supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

There was clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(g). Respondent's willingness to maintain a relationship and continue living with Chase's father—even after he had assaulted her while she was pregnant with Chase—demonstrated her inability to properly protect Chase. Evidence of violence between parents is relevant to showing that the home is an unfit place for the children by reason of criminality or depravity. *In re Miller*, 182 Mich App 70, 80; 451 NW2d 576 (1990).

Additionally, petitioner's caseworker advised respondent that she would need to get a job, participate in counseling, and enroll in parenting classes in order to demonstrate that she had the ability to properly care for Chase. Yet, from the time the caseworker received the case assignment in March 2007 until the preliminary hearing in July 2007, respondent did not obtain employment. Further, she did not enter counseling or enroll in parenting classes. In the five months since Chase's removal, respondent had not done anything to show that she could capably parent Chase. There was also insufficient evidence that respondent had improved sufficiently since her parental rights were terminated to eight other children. A parent's mistreatment or neglect of one child is probative of probable treatment of other children. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001).

The court also did not err in terminating respondent's parental rights under MCL 712A.19b(3)(j). Chase would have been at risk in respondent's care given the history of prior terminations and the unresolved issues that led to the terminations. Respondent's rights to the other children were terminated in March 2005 because she did not comply with services. There was no evidence in this case that she addressed the past issues and could now provide a safe home environment. Respondent's willingness to maintain a relationship with Chase's father and to continue living with him after he physically abused her demonstrates poor judgment. There is no indication that respondent's judgment had improved so that Chase would no longer be at risk of harm in her care.

The court also did not err in terminating respondent's parental rights under MCL 712A.19b(3)(i) and (l). Her parental rights had previously been terminated to eight other children.

Finally, the trial court did not clearly err in its best interests determination. There was no evidence that it was contrary to Chase's best interests to terminate respondent's parental rights. In failing to show the court that she had addressed the issues that led to the termination of parental rights of her other children, respondent demonstrated that making herself available to care for and parent Chase was not her priority. Indeed, by living with Chase's father after he was convicted of domestic violence against her, respondent demonstrated that she gave priority to her own desires and relationship over Chase's safety. And it was not in Chase's best interests to be with a parent who cannot identify or protect him from risk of harm.

Respondent argues that no testimony was ever presented that Chase was at risk while in her care. Respondent mischaracterizes the testimony. The evidence clearly established that Chase was subject to risk of harm while living with an abusive parent. Furthermore, a best interest finding involves more than lack of harm; it involves an affirmative finding that termination is clearly not in the child's best interests. *Trejo, supra* at 356-357. Contrary to respondent's contention, she was unable to parent Chase because she had not demonstrated that she could protect him from harm, she did not have suitable housing, and she had not maintained employment. "'If a parent cannot or will not meet her irreducible minimum parental responsibilities, the needs of the child must prevail over the needs of the parent.'" *In re Terry*,

240 Mich App 14, 28; 610 NW2d 563 (2000), quoting *In re AP*, 728 A2d 375, 379 (Pa Super, 1999).

There were no errors warranting relief.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael R. Smolenski
/s/ Deborah A. Servitto