

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 16, 2010

In the Matter of COMPTON, Minors.

No. 297695
Monroe Circuit Court
Family Division
LC No. 08-020697-NA

Before: WHITBECK, P.J., and ZAHRA and FORT HOOD, JJ.

PER CURIAM.

Respondent R. L. Compton appeals as of right the order terminating her parental rights to her eight minor children.¹ This Court previously reversed and remanded for a best interests hearing because the lower court held improper in camera interviews with the children before deciding their best interests.² However, this Court affirmed the lower court's finding of statutory grounds; therefore, only the children's best interests are at issue in this appeal.³ We affirm.

I. FACTS

The trial court found that the children's father⁴ sexually abused one of his older daughters when she was nine or ten years old and that he sexually abused one of the minor children at issue, H. Compton, when she was about eleven years old. An older half-brother also sexually abused H. Compton. Evidence established that the home was cluttered and dirty and that the children were frequently absent or tardy from school. However, the trial court opined that the best interests was a close decision and might differ for each child. According to the trial court, five of the children told their lawyer-guardian ad litem that they wanted to go home and several of the children had anger issues, apparently stemming from their removal and placement in foster care. The trial court ordered a therapeutic meeting between the four oldest children and their parents; however, the meeting was not held because the children allegedly did not want to meet

¹ MCL 712A.19b(3)(b)(ii) (failure to protect child from physical injury or abuse) and (3)(j) (reasonable likelihood of harm if child is returned to parent).

² See *In re HRC*, 286 Mich App 444, 454-457; 781 NW2d 105 (2009).

³ *Id.* at 461.

⁴ The children's father, R. Compton, Sr., released his parental rights.

with their parents. The trial court instead interviewed each child in camera, found that termination was in each child's best interests, and terminated the parents' parental rights.

On appeal, this Court concluded that there was sufficient evidence of statutory grounds to terminate R. L. Compton's rights because she administered a pregnancy test to her then-eleven-year-old daughter, yelled at her husband when it was positive, did not seek medical treatment for her daughter, and failed to protect her children from her husband.⁵ However, this Court reversed and remanded on the ground that the in camera interviews were improper.⁶

On remand, Kelly Allen testified that she had been S. Compton, R. Compton, Jr., P. Compton, and K. Compton's foster care worker since December 2009. She said that S. Compton, who is deaf, was initially placed with his siblings, but he was moved to St. Louis Center and then his current placement because of out-of-control behavior and lack of communication. Allen said that S. Compton was doing very well with his foster parents, who were also deaf, and that the other children were also doing well in their placements. She testified that the foster parents met the children's educational, daily, and medical needs and intended to provide long-term care. Allen said R. Compton, Jr. and P. Compton wanted R. L. Compton's rights terminated so that they could be adopted and were angry when they learned the process was not over. Allen explained that the children were bonded to R. L. Compton because she was their mother; however, for all but H. Compton and A. Compton, the emotional attachment was destroyed by what happened in the home and the significant time apart.

Allen testified that she was not comfortable with the children being returned to R. L. Compton. She noted that R. L. Compton's education was the only change; she was not even employed. Allen was concerned that R. L. Compton testified she was uncertain the sexual abuse occurred, had not sought counseling to learn about sexual abuse, still had contact with the children's father, and had unapproved contact with the girls. She opined that R. L. Compton needed counseling to address what was happening in the home, the separation from the children, and to learn each child's unique needs. Allen testified that R. L. Compton would need individually-based parenting instruction and eventually family counseling. She said many relationships needed repair, and this would take more than six months to a year.

Melissa Whalen testified that she was S. Compton's therapist from November 2008 until December 2009 at Eastern Michigan University Clinical Counseling Department. Whalen testified that birth to five years is critical for language development, and it is difficult to learn if that window was missed. According to Whalen, S. Compton had not improved enormously because of the missed years in his language development, but he was progressing and learning a few new signs and concepts each week. Whalen testified that S. Compton never initiated conversation about his biological parents and that he ignored her or moved on to something else when she tried carefully a few times to get his opinion. Whalen testified that S. Compton was affectionate with his foster parents, turned to them when he was sad or overwhelmed, and

⁵ *In re HRC*, 286 Mich App at 461.

⁶ *Id.* at 466.

hugged them or leaned against them. She testified that the foster parents built social support for him and that he played with their friends' children.

S. Compton's foster father, identified only as "Phillip," testified through an interpreter that S. Compton had been in his care since December 2008. Phillip said S. Compton was in sixth grade but functioned at a pre-kindergarten level because he previously had no language and was taking a long time to catch up. However, he said that S. Compton's language skills had improved dramatically. Phillip testified that S. Compton was on medication for attention deficit disorder and had other issues that could not be diagnosed because of his limited language. Phillip said S. Compton had friends at school, attended school regularly, played soccer and basketball, had play dates with other deaf children, and was involved in a Christmas play. He testified that, every two weeks, S. Compton had visits with his siblings. Phillip said he intended to continue the visits. He testified that S. Compton never mentioned returning to his biological parents. S. Compton's foster mother, "Theresa," testified that they shared a strong bond and that he adapted well to their home.

R. Compton, Jr., P. Compton, and K. Compton's foster mother since June 2008, identified as "Kim," testified that K. Compton did not really talk when she came into care but started picking up words when everyone started talking to her. Kim testified that R. Compton, Jr.'s attention deficit disorder medication seemed to be working. She said his grades were better, although he still struggled because of his reading ability. She said that she communicated with his primary teacher and that he received reading help. Kim said that she and her husband worked on the boys' homework with them, had the boys read a book at their level to them, required them to read before they played video games on the weekends, had them read signs, and were teaching them to read a map. She testified that their reading was improving. She said that the boys still had some behavior problems, but they were working on them. Kim testified that all three of the children in her care had a parental bond to her and her husband. She testified that they hugged and said they loved the children every night, the children came to them for everything they needed, and they were welcome to come in their room if scared at night. She said that the boys referred to them as "mom" and "dad" and did not want to go back to their biological parents. She said that the children called their biological parents by their first names, but she had not encouraged that. Kim testified that she coordinated the sibling visits and would continue if R. L. Compton's rights were terminated because she felt the visits were important for the children to not forget who they were.

Jessica Parsil testified that she had counseled R. Compton, Jr., P. Compton, and K. Compton since they came into care. She testified that R. Compton, Jr. and P. Compton significantly improved behaviorally, academically, and emotionally. She said that they learned to handle anger more appropriately, improved interpersonal skills, and listened better. Parsil said that R. Compton, Jr. and P. Compton had attention deficit disorder and adjustment disorder with mixed anxiety and depressed mood, R. Compton, Jr. had rheumatic stress disorder, and P. Compton had post-traumatic stress disorder. She testified that P. Compton had decreased nightmares, sleepwalking, anxiety, and fearfulness. Parsil opined that the routine and structure at home helped both boys and, without it, they would again struggle to manage their symptoms. She said that, with therapy and stability, their disorders might completely go away. Parsil testified that K. Compton was less fearful, more trusting, and more emotionally adjusted, and her speech improved significantly. She said that K. Compton also had an adjustment disorder with

mixed anxiety and depressed mood and initially was fearful, had difficulty sleeping and nightmares, was nervous, and backed away from people, but her anxiety had decreased significantly. She opined that K. Compton would also regress if the home stability was removed.

Parsil further testified that all three children were bonded to their foster parents, were very comfortable with them, called them “mom” and “dad,” talked to them about issues, and looked to them to meet their needs and provide safety and security. She said that the boys did not like when Parsil referred to their biological parents as their mom and dad. She said that they had a strong negative reaction to returning to their biological parents. Parsil said that, if she tried to ask her about her biological parents, K. Compton adamantly clarified that her foster parents were her mom and dad. Parsil testified that R. Compton, Jr. had a lot of anger about his biological parents and was not bonded to them. She said R. Compton, Jr. and P. Compton threatened to run away or become aggressive if returned. She opined that even visits would be harmful because the children clearly stated they did not want to be in the same room and were angry and emotional at the thought. However, she said that if R. L. Compton’s rights were not terminated, then she would help the children adjust. However, she was concerned that their bond was beyond repair. Parsil said it would possibly take more than a year to restore the bond if such repair was even attempted.

R. Compton, Jr. and P. Compton’s principal and reading resource, Rosemary Nearpass, testified that the foster parents were very involved in their education, came in whenever Nearpass asked, attended parent-teacher conferences, and made sure the boys attended a summer reading program and the Y Camp. She said it seemed like the boys trusted the foster parents. She opined that removing them would break their trust. She testified further that P. Compton said there was no way he was going home.

H. Compton and A. Compton’s counselor, Janette Traver, opined that termination was in their best interests because of the sexual abuse and the parents’ lack of accountability. Traver said that they were doing well in their placement, their emotional needs were being met, and the foster parents were involved in the counseling. She said that it took H. Compton a long time to stop blaming herself for the abuse and that returning home would cause significant regression. Traver testified that H. Compton was relieved her parents’ rights were terminated and said that it was a good decision. Traver said H. Compton did not know if she wanted to live at home, but wanted to communicate with R. L. Compton. However, she testified that when the girls communicated with R. L. Compton, they acted out more and were more resistant. She said that A. Compton believed that her mother was a victim and that the abuse would not happen again because the abusive half-sibling had left the home.

Traver opined that, if the children were returned, R. L. Compton must acknowledge the abuse and that there must be monitoring. Traver said that they would also need a year or two of family therapy and counseling for R. L. Compton, addressing sexually abused children and identifying perpetrators, before she would feel comfortable with them returning to R. L. Compton. She testified that she did not believe A. Compton would report further abuse because she called herself a secret-keeper, and she worried H. Compton would feel it was her shame.

H. Compton and A. Compton’s foster father of nine months, identified as “Paul,” testified that A. Compton was doing wonderfully in school and that H. Compton was improving. He said they were mostly happy, well-adjusted teenagers with only minor issues and a good relationship

with each other. Paul said that sibling visits were important to them, and he would make sure they continued if R. L. Compton's rights were terminated. Paul said that the girls had mixed emotions about going home because they loved their parents but knew it was not a good place for them; they were better off and safer in the foster home.

W. Compton and T. Compton's foster father, identified as "William," testified that the boys were placed with him and his wife in September 2009. He testified that they referred to their biological home as their real home but said foster care felt like their real home too and were comfortable there. He said they looked forward to their sibling visits. William testified that neither boy could read or knew their alphabet when they arrived, but both had since learned to read and T. Compton was doing well in kindergarten. He said he and his wife emphasized reading and homework, and the children responded well to a consistent schedule. William testified further that the boys' photograph of their biological parents was important to them and that they spoke more favorably of their mother than their father. However, he said that they did not talk about her at length and never expressed a desire to return to her. He said they wanted to stay with him and his wife and were anxious to be adopted.

Jacque Marry testified that she had counseled W. Compton and T. Compton weekly since December 2008 and discussed with the foster parents techniques to improve behavior. Marry testified that she visited the placement and they were adjusting well. She said they referred to the foster parents as "mom" and "dad," hugged them, and turned to them for reassurance and approval. She said they always referred to their biological parents by their first names. She testified that T. Compton was happy where he was and never said he wanted to go home. She said the boys initially were very aggressive and had a poor sibling relationship, but they made a lot of progress. She testified that their self-esteem and socialization increased and they showed respect to each other and formed a bond with their caregivers. Marry opined that termination was in their best interests. She said they had stability and depended on their foster parents, and she believed they would revert if returned. Marry testified that, if the boys were returned to R. L. Compton, they would first need to visit and rebuild their relationship, which could take awhile. She said the one-and-a-half-year absence greatly affected their bond, which might not be overcome in six months. She opined that the boys would have trust issues again. Marry testified further that the boys had nothing positive to say about their father and claimed their mother was nice because she let them watch whatever television they wanted, eat what they wanted, and did not really have rules. She testified that neither child ever said anything that indicated a significant bond with either biological parent.

The trial court interviewed all the children, except S. Compton and K. Compton, in chambers with all counsel present, parties watching by video monitor, and parties and counsel able to interrupt and consult at any time. H. Compton testified that she would like to live with her mother because she loved her and believed that was the right place for her, she would be safe there, and nothing bad would happen. She said wanted to finish the school year where she was, but she did not mind changing schools and wanted to reunify as soon as possible. She said that she had wanted to live with her mother for a long time and would want to even if A. Compton did not. She said she did not think she would be in any danger if her father was in the home because she would tell someone this time about any abuse; she would not let it happen. She testified further that her mother could protect her. A. Compton testified that she would like to live with R. L. Compton because she had all her life and it was hard not to. She said her mother

was always there for her, and she would feel safe despite what happened. A. Compton testified that she believed R. L. Compton would help her if her father acted inappropriately because she cared about them and would not want them taken away. T. Compton said that he missed his mother. He agreed that he loved her and would see her again if he could. However, when he was asked if he wanted to live with her, he said, "No." He said he liked where he was and was happy that he was going to be adopted. W. Compton testified that he would like to see his mother again and visit his house, but he would not really like to live with her because he liked his current family better. W. Compton said it was great he was going to be adopted because he got along with his foster family and was happy there.

R. L. Compton testified that she was not employed but received \$700 a month in social security for a learning disability, \$1,200 from her husband in "alimony," and food stamps. She said she paid \$850 monthly rent and \$450 to \$500 a month in utilities, received a free cellular telephone from the state, and used buses because her car did not run. She testified that she had only completed sixth grade, but she earned her high school diploma after the children were removed. R. L. Compton said she then completed a two-year program in medical assisting in November 2009 and was six weeks into a program at Dorsey Business School to specialize as a dialysis PC tech.

R. L. Compton further testified that she had begun a six-week course through Sign Language Services of Michigan. However, she said that they had not taught her anything that she did not know. R. L. Compton said that she would take S. Compton to classes at the same place if needed. She said that she would take all the children with her so they could learn too; however, she had not checked into the price of the family plan. She testified that she also completed a nurturing parent program she began in 2008.

R. L. Compton testified that she was responsible, loving, and caring, and would rather spend time with her children than anything else. She identified her weakness as giving in to them too easily. She said she would make sure the children went to school and not let them come home unless they were really sick because she realized the importance of school. She admitted she could have been a better parent. She said she was aware how far behind the children were academically. However, she believed that she had become a good role model because she earned her diploma and medical degree. She testified further that she tried to keep the children on a daily schedule, but their father let them do whatever they wanted. R. L. Compton testified that she read case studies on how to protect children from predators by recognizing the signs, specifically how close the people were to the child, how they reacted toward the child, and if the child was skittish around them. She said that, if she thought her children were being abused, she would remove them from the situation, contact the police, and get counseling. However, she only admitted that she had failed to protect her children by allowing their father to spank them.

R. L. Compton testified at a March 16, 2010 hearing that, if the children were returned, she would get them in counseling if they needed it and was willing to attend with them. R. L. Compton said she would do anything that would improve her parenting skills. She said she needed counseling with R. Compton, Jr. and P. Compton to get their bond back; they were the only children who hated her, based on counseling reports and what people said. However, she believed she could fix their bond and blamed the damage on them being told things they were not supposed to be told. R. L. Compton said she believed K. Compton still had a mother-

daughter bond with her. She agreed to go into counseling with H. Compton to address the sexual abuse if the court wanted her to.

R. L. Compton explained that she had not filed for divorce because she lacked money but had the paperwork ready. She explained that she did not think a restraining order was necessary when the children were not in the home. When asked whether she thought the father sexually assaulted any of her children, she said, "I don't know." However, when she was asked whether she knew H. Compton was abused she said, "Yes."

R. L. Compton testified again on March 25, 2010, that she had filed for divorce. However, she later admitted that she and the children's father decided to take the sign language course together and rode to each class together. R. L. Compton testified that, if the children were returned, she would get a protective order and call the police if their father showed up at the door. When R. L. Compton was asked again whether she believed her husband sexually assaulted their children, she said, "Well, the problem is I believe the girls of what they say, it's just I don't understand, the how and the when. When did he have time and how did he manage to do it without me knowing or anybody else in the home knowing about it." R. L. Compton further testified that, since the last hearing, she started counseling because people said she needed it.

R. L. Compton testified that she believed she still had a bond with her children based on the time they spent together and the love they showed each other. She said she did not drink alcohol or use illegal drugs and had no physical or mental health issues that prevented her from caring for her children. She testified that she was willing to do anything the court or petitioner requested to be reunified with her children.

The trial court considered the evidence and announced its decision on March 31, 2010. In issuing its ruling, the trial court observed that there was a lot of evidence in this case. The trial court noted that the prior court found that the father sexually assaulted the children and that R. L. Compton failed to protect them. The trial court found that R. L. Compton failed to sincerely admit that the abuse occurred. The trial court opined further that R. L. Compton did not have the slightest comprehension of what it would take to make a suitable home. The trial court found separately for each child that termination of R. L. Compton's rights was in that child's best interests. Accordingly, the trial court terminated R. L. Compton's parental rights to each child.

II. BEST INTERESTS DETERMINATION

A. STANDARD OF REVIEW

R. L. Compton contends that the trial court erred finding that termination of her parental rights would serve the children's best interests. After a trial court has determined that the DHS has established a statutory ground for termination by clear and convincing evidence, if the trial court also finds that termination is clearly in the child's best interests, then the trial court shall

order termination of parental rights.⁷ There is no specific burden on either party to present evidence of the children's best interests; rather, the trial court should weigh all evidence available.⁸ It is appropriate for the trial court to consider the advantages of the foster home when deciding a child's best interests.⁹ We review the trial court's decision regarding the child's best interests for clear error.¹⁰

B. ANALYSIS

We conclude that the trial court did not clearly err in finding that termination of R. L. Compton's parental rights was in the children's best interests.

It was appropriate for the trial court to consider testimony that S. Compton struggled because he did not learn language during the critical period in R. L. Compton's care. It was also appropriate for the trial court to weigh evidence that the father sexually abused some of the children and the risk of harm continued because R. L. Compton offered conflicting testimony about her contact with him and did not clearly acknowledge the abuse. Although R. L. Compton said she believed her daughters, she testified that the "problem" was that she did not know how or when it could have occurred. When asked if she failed to protect her children, she only admitted that she should not have allowed their father to spank them.

Overall, the children were doing well and improving in foster care both physically and mentally. The children were now receiving the care, attention, structure, and stability that they deserved. Indeed, most of the children were happy in their foster home placements and did not wish to return home. The only children who wished to return to R. L. Compton's care were at the greatest risk because they believed that they would be safe even if their father who sexually abused them was present in the home.

R. L. Compton's educational efforts were commendable and indicated that she would probably take the children's education more seriously. However, she still failed to understand each child's unique needs and did not seek a divorce or counseling until after she began testifying in the best interests hearings and only because she was told that she needed to. R. L. Compton was far from capable of providing a safe home that met these children's needs, and the children needed permanence.¹¹

⁷ MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000).

⁸ *Trejo*, 462 Mich at 353.

⁹ *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009).

¹⁰ *Trejo*, 462 Mich at 356-357.

¹¹ See *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991).

We affirm.

/s/ William C. Whitbeck

/s/ Brian K. Zahra

/s/ Karen M. Fort Hood