

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED

January 13, 2011

In the Matter of J. M. Escalante, Minor.

No. 298610

Kent Circuit Court

Family Division

LC No. 09-052090-NA

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Before: MARKEY, P.J., and ZAHRA and DONOFRIO, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to the minor child, J. M. Escalante, under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (child will be harmed if returned to parent. We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent father's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The condition leading to adjudication was respondent father's physical abuse of his step-daughter, who was J.M.'s two-year-old half sister, K. Snyder. Respondent father was charged with third-degree child abuse and pleaded guilty to domestic violence for that offense. The record supports that this abuse was a symptom of difficulty managing his anger and lack of appropriate parenting skills and disciplinary techniques. In addition, respondent father lacked employment that resulted in inadequate housing and inability to provide the minor child, J.M., with basic physical necessities. These conditions constituted failure to provide proper care of J.M., and placed her at risk of physical abuse in respondent father's care. More than 182 days elapsed between the August 17, 2009 initial dispositional order in J.M.'s case and the May 3, 2010 termination hearing.

Respondent father argues on appeal the evidence did not show he failed to properly care for J.M. because he did not physically abuse her, and he never had the opportunity to parent her because she was removed at birth. We disagree. Respondent father's own testimony showed he had inflicted corporal punishment on K. Snyder on more than one occasion for screaming, crying, and wetting the bed. The trial court noted this "discipline" clearly constituted physical abuse. We recognize that there are differences between the children where J.M. is respondent father's biological child, and early reports indicated she was a much calmer, quieter baby than K. Snyder, who threw as many as six uncontrollable screaming and kicking tantrums a day. However, respondent father abused K. Snyder on more than one occasion as her stepfather, and

his treatment of one child is probative of how he might likely treat another child. *In re Powers*, 208 Mich App 582, 588-589; 528 NW2d 799 (1995).

Further, and of equal importance, respondent father completed a psychological evaluation showing no barriers to his ability to learn to become an appropriate parent. He completed two different parenting programs and learned some skills needed to care for an infant. However, according to the DHS caseworker and his probation officer, respondent father did not benefit from anger management classes or the Thinking for Change group, and failed for 10 of the 11 months of the proceeding to admit his abuse of K. Snyder or to follow up on a referral to individual counseling. His conversations with the caseworker regarding concepts taught in parenting classes and videotapes showed he did not internalize appropriate parenting and disciplinary techniques. Therefore, the evidence fully supported that he made no progress addressing the crux of his inability to safely and properly parent, which was difficulty controlling his anger and lack of parenting and appropriate disciplinary skills. In addition, he failed to pursue referrals for housing and an employment program that would train and place him in a job, thus enabling him to provide J.M. a home and basic necessities.

Given clear and convincing evidence over 11 months that respondent father made no progress on any aspect of his parent agency agreement other than interacting somewhat better with J.M. at visits, there was no reasonable likelihood he would rectify the condition of J.M.'s risk of harm in his care and no reasonable expectation he would become able to provide J.M. with proper care within a reasonable time. The trial court accurately noted respondent father's compliance was not only too late, but also superficial, and did not clearly err in terminating his parental rights under §§ 19b(3)(c)(i), (g) and (j).

Affirmed.

/s/ Jane E. Markey  
/s/ Brian K. Zahra  
/s/ Pat M. Donofrio