

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

March 10, 2011

In the Matter of PUTMAN/NICHOLSON/
MOSELEY, Minors.

No. 299466
Wayne Circuit Court
Family Division
LC No. 09-489705

Before: MURPHY, C.J., and STEPHENS and M. J. KELLY, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating her parental rights to the four minor children under MCL 712A.19b(3)(b)(ii), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm.

The trial court did not clearly err in terminating respondent's parental rights. MCR 3.977(K). The statutory grounds for termination were established by clear and convincing evidence, and the evidence established that termination of her parental rights was in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000).

Respondent contends that the agency was under an obligation to provide reasonable reunification services, but did not. In this case, the allegation that led to adjudication was that respondent failed to protect her second child, then seven years old, from sexual abuse perpetrated by the father of the two youngest children. Termination was sought at original disposition and, therefore, the agency was under no obligation to provide reunification services. MCL 712A.19a(2)(a); MCL 722.638; MCR 3.965(D)(2); *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009). Respondent makes the novel argument that no "judicial determination" regarding aggravating circumstances was made until the termination order itself. However, if the trial courts' authority were so limited, then reasonable efforts would have to be made in every case unless and until final disposition. That is simply not what the law requires. Additionally, when a parent argues that the agency did not make reasonable efforts to reunify the family, she must demonstrate that she would have fared better if the agency had offered services. *In re Fried*, 266 Mich App 535, 543; 702 NW2d 192 (2005). Respondent does not indicate how she would have benefited from services. She had a profound lack of insight into the problem, as evidenced by the fact that she allowed the perpetrator to return to the family home after he was released on bail. Moreover, she attempted to coach the child and her older sister, who by this time had made her own allegations of abuse, into saying that the abuse was done by a man named "Junior" who lived in Pennsylvania, and not by their stepfather. For these reasons, it was

clear that respondent failed to protect her children, lacked the ability to provide proper care or custody for the children, and that the children would have likely been harmed if returned to her care. See MCL 712A.19b(3)(b)(ii); MCL 712A.19b(3)(g); MCL 712A.19b(3)(j).

Having found the statutory grounds for termination proven by clear and convincing evidence, the trial court then had to consider whether termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). The most severely abused child had serious problems and was even admitted to the hospital for some of her behaviors. Whether these problems existed before the abuse was of little consequence where respondent simply lacked the insight or means to care for the child's special needs. Given respondent's poor decision-making and history of failure to protect, the trial court did not clearly err in determining that termination of her parental rights was in the children's best interests.

Affirmed.

/s/ William B. Murphy
/s/ Cynthia Diane Stephens
/s/ Michael J. Kelly