

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 28, 2011

In the Matter of GUNN, Minors.

No. 301447
Oakland Circuit Court
Family Division
LC No. 09-000438-NA

Before: BORRELLO, P.J., and JANSEN and SAAD, JJ.

PER CURIAM.

Respondent appeals the trial court's order that terminated his parental rights to the minor children under MCL 712A.19b(3)(b)(i), (c)(i), (c)(ii), (g), and (j). For the reasons set forth below, we affirm.

The children came to the attention of the Department of Human Services after respondent broke his five-year-old son's arm, claimed to medical personnel that the injury was caused by a fall from a kitchen chair, and then removed the boy from the hospital and did not take him to Children's Hospital as medically advised. It had also been reported that a few months earlier respondent threw one of the children from the porch and that, at times, the children smelled of marijuana. The court ordered respondent to participate in services and, although he attended visits with the children regularly and made some progress in parenting skills, he did not attend court-ordered individual counseling and substance abuse counseling, did not submit requested drug screens, and did not obtain legal employment or appropriate housing. At the time of the termination hearing, respondent was incarcerated for a child abuse conviction stemming from the abuse of his son.

Respondent argues that the trial court clearly erred in finding that the statutory bases for termination were established by clear and convincing evidence. In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). We review for clear error both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the best interests determination. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009).

The trial court did not clearly err in finding that sections (b)(i), (c)(i), (g), and (j) were established by clear and convincing evidence.¹ The conditions leading to adjudication were respondent's physical abuse of a child, substance abuse, and anger management issues. Given respondent's lack of progress with anger management and substance abuse, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed in the foreseeable future if returned to respondent's home. Throughout the case, respondent threatened protective services workers, was disrespectful to foster care workers, and stormed out of a visitation after yelling at one of the children for putting his head on a table. Respondent did not attend court-ordered individual counseling and substance abuse counseling and did not submit many requested drug screens. A drug screen taken right before he was incarcerated for child abuse was positive for marijuana. Although there was testimony that respondent always provided for the children's physical needs, he did not have appropriate housing or legal income. The children would be at risk if returned to respondent's home with anger management and substance abuse issues unresolved and no appropriate housing or legal income. Because respondent made very little effort to resolve these issues, we agree that respondent will not resolve them in a reasonable amount of time, given the children's ages.

The trial court also did not clearly err in its best interests determination. MCL 712A.19b(5). Respondent physically abused his son and showed no motivation to resolve his anger and substance abuse problems. Although respondent appeared to share a bond with his children, the likelihood of injury to the children if returned outweighed that bond.

Affirmed.

/s/ Stephen L. Borrello
/s/ Kathleen Jansen
/s/ Henry William Saad

¹ The trial court clearly erred in finding that section (c)(ii) was established by clear and convincing evidence. It is not clear what "other conditions" that would cause the children to come within the court's jurisdiction existed or whether respondent received notice of any "other conditions." However, the error is harmless because only one statutory ground need be established to support termination. *In re SLH*, 277 Mich App 662, 674; 747 NW2d 547 (2008).