

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 17, 2011

In the Matter of SCOTT, Minors.

No. 303555
Wayne Circuit Court
Family Division
LC No. 03-418622

Before: SERVITTO, P.J., and CAVANAGH and STEPHENS, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the three minor children under MCL 712A.19b(3)(b)(i), (g), and (j). We affirm.

Respondent's children were in foster care from April 2003 to October 2007 and again from August 2008 to August 2009. Petitions filed since 2006 had alleged physical abuse by respondent. Both times that the children were in the trial court's temporary custody petitioner provided respondent with an extensive case service plan, and respondent participated in parenting classes and therapy. On April 1, 2010, respondent's children were removed from her care because of allegations of physical abuse. On that day, respondent's almost seven-year-old son, O. Scott, arrived at school with red scratches on his face, and his school called Children's Protective Services and the police. The boy stated that respondent had spanked him twice that morning with different belts. One of the belts had "bumps" on it.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. See MCR 3.977(K); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Respondent's act caused the physical injury or abuse of her child. There was clear and convincing evidence that respondent hit almost seven-year-old O. Scott with a belt on two separate occasions on the morning of April 1, 2010, because he could not find his belt for school. The belt left marks on his face that prompted his school to call authorities. In statements to a forensic interviewer, O. Scott's older brother stated that respondent "whipped" O. Scott twice that morning with a belt. O. Scott and his sister told the interviewer that, whenever they were in trouble, respondent hit them all over their bodies with a belt. Although respondent testified that she only hit O. Scott's hand with the belt, the trial court apparently believed the children's statements. This Court will not displace the trial court's credibility determination. *In re Miller*, 433 Mich at 337.

There was also clear and convincing evidence of a reasonable likelihood that respondent's children would suffer harm or injury in the foreseeable future if returned to respondent's home. Respondent had twice been offered a case service plan and received years of services when her children were previously in foster care. Respondent completed parenting classes and counseling. Respondent believed she benefited from services, she did not have an anger problem, and she properly disciplined her children. Nonetheless, she still hit her son with a belt, leaving marks on his face, because he could not find a belt to wear to school.

In addition to the physical abuse, there was evidence of sexual abuse between the siblings. Respondent's daughter told the forensic interviewer that O. Scott had humped her and put his finger in and on her vagina. Respondent testified that, after the children were returned home in 2009, she thought that her older son was being sexually inappropriate with his sister and she took him to the police station to scare him. Respondent also testified that, on April 1, she hit O. Scott on the hand with the belt because she thought he was being sexually inappropriate with his sister. Respondent never sought any help for the sexual behavior. Respondent thought the children had worked it out with their counselors when they were in foster care the last time. However, respondent testified about two different incidents of sexual behavior since the children were returned to her care, and she failed to seek any help for them in stopping the behavior. In addition, when respondent's daughter spoke with the Kids Talk interviewer, she refused to talk about anything because she said that respondent had told her not to talk about it.

The court also did not clearly err in finding that termination of respondent's parental rights was in the children's best interests. See MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). At the time of the termination hearing, the children had been in foster care for almost six years, most of their lives, and respondent denied any problems with anger or discipline. Yet, her own testimony provided evidence that her children were acting out sexually with each other and she failed to seek any treatment for them. In addition, the children reported that respondent's form of discipline was hitting them with a belt. Considering the amount of time the children had been in foster care, the numerous services respondent had participated in, and the continued physical abuse, the trial court did not clearly err in finding that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Deborah A. Servitto

/s/ Mark J. Cavanagh

/s/ Cynthia Diane Stephens