

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
July 23, 2013

In the Matter of D. S. TAYLOR, Minor.

Nos. 314399; 314400
Kent Circuit Court
Family Division
LC No. 11-051525-NA

Before: MURPHY, P.J., and SAAD and SERVITTO, JJ.

PER CURIAM.

In docket no. 314399, respondent father appeals the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). In docket no. 314400, respondent mother appeals the same order. For the reasons set forth below, we affirm in both cases.

Respondents argue that the trial court clearly erred in finding that three statutory grounds for termination were established by clear and convincing evidence. A trial court's finding that a ground for termination has been established is reviewed under the clearly erroneous standard. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

To terminate parental rights, a trial court must find that the existence of a statutory ground for termination in MCL 712A.19b has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Under MCL 712A.19b(3)(c)(i), the first dispositional order was entered on July 29, 2011. At the time of adjudication, the trial court found statutory grounds for jurisdiction under MCL 712A.2(b) because respondents had failed to "provide, when able to do so, support, education, medical, surgical, or other necessary care for health or morals," they had caused a "substantial risk of harm to mental well-being," and their home was "an unfit home environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent." The termination hearing was held on October 29, 2012, well over 182 days after the first dispositional order.

Here, respondents received extensive services, including psychological evaluations, parenting classes, domestic relations classes, an anger management class, money management classes, and parenting time. Respondent father received homework assignments while he was incarcerated which was designed to help him work on emotional stability and parenting techniques. Also, respondent father was referred to sexual abuse counseling. The trial court acknowledged that both respondents had participated in services. On appeal, respondents argue

that the progress they made through services showed that the conditions that led to the adjudication would have been rectified within a reasonable time.

However, while a parent's participation in services is evidence that supports reunification, see *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003) (recognizing that a "parent's *compliance* with the parent-agency agreement is evidence of her ability to provide proper care and custody"), a parent must show sufficient compliance with and benefit from services to address the problem targeted by those services, *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Here, during the course of this case, respondent father pleaded guilty to attempted third-degree child abuse for conduct related to one of the minor child's stepsiblings. Evidence showed that child abuse was an issue in the home, but both respondents continued to deny that physical abuse occurred in the home. As a result, the trial court found that respondents had not accepted responsibility for the abusive conditions within their family. This finding was also supported by recorded conversations between respondents during respondent father's incarceration that revealed that respondent father still viewed the minor child and her siblings as untruthful and at fault for this case approximately a year after the child was removed. Respondents cannot demonstrate that they sufficiently complied with services to address the problem of child abuse when they continued to deny that there was a problem with child abuse. *Id.* In fact, respondent mother acknowledged the problem and respondent father only acknowledged feeling apologetic and empathetic shortly before the termination hearing in this very lengthy case. The trial court did not clearly err in ruling that respondents had not made progress toward reunification because they failed to accept responsibility for the abusive conditions within their family. MCR 3.977(K). And, there was testimony that because respondents had a history of refusing to take responsibility for the abuse within their home, the conditions which led to adjudication could not be rectified in a reasonable amount of time. The trial court did not clearly err in finding a statutory ground for termination of respondents' rights under MCL 712A.19b(3)(c)(i). MCR 3.977(K); *Trejo*, 462 Mich at 356-357.

Regarding MCL 712A.19b(3)(g) and (j), respondents argue that the trial court erred in finding that they had not made progress toward providing proper care or custody or a safe home environment for the child. However, as discussed, the trial court correctly ruled that respondents had not made progress toward reunification because they failed to accept responsibility for the abusive conditions within their home. A trial court may rely on a parent's history of failing to provide care and custody in finding that there was no reasonable expectation that the parent would be able to provide proper care and custody within a reasonable time. *In re Archer*, 277 Mich App 71, 75-76; 744 NW2d 1 (2007). Also, a trial court may rely on a parent's history in determining that a child would be harmed if returned to the parent's home. *Id.* Moreover, testimony established that the minor child was at a significant risk of harm in the form of physical abuse if she returned to respondents' home. The trial court did not clearly err in finding statutory grounds for termination of respondents' rights under MCL 712A.19b(3)(g) and (j). MCR 3.977(K); *Trejo*, 462 Mich at 356-357.

Finally, respondent mother argues that the trial court erred when it found that termination of her parental rights was in the minor child's best interests. A trial court's finding that termination is in a child's best interests is reviewed under the clearly erroneous standard. MCR 3.977(K); *Trejo*, 462 Mich at 356-357.

Respondent mother argues that the trial court erred because she fully complied with the services offered to her. However, as discussed, the trial court did not err in holding that respondent mother had not made progress toward reunification despite her participation in services because she failed to accept responsibility for the abusive conditions within her family. Accordingly, the mere fact that respondent mother complied with services did not weigh against the termination of respondent mother's parental rights. *Frey*, 297 Mich App at 248.

Respondent mother also argues that the trial court erred because she had a strong bond with the child. Evidence showed a bond between the child and respondent mother, and a trial court may consider the parent/child bond in determining the child's best interests. *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004). However, there was also testimony that termination would be in the child's best interests because she needed permanence and because the child was making good progress while in foster care and was bonding with her foster parents. The trial court properly considered this testimony within its best-interests determination. *Id.*; *McIntyre*, 192 Mich App at 52. Accordingly, while not every factor favored the termination of respondent mother's parental rights, the factors found on the whole record supported termination and a trial court must determine the best interests of the child using evidence from the whole record. *Trejo*, 462 Mich at 353. The trial court did not clearly err in finding that termination of respondent mother's parental rights was in the child's best interests. MCR 3.977(K); *Trejo*, 462 Mich at 356-357.¹

Affirmed.

/s/ William B. Murphy
/s/ Henry William Saad
/s/ Deborah A. Servitto

¹ Respondent father does not challenge the trial court's best-interest determination on appeal.