

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROBINSON/JACKSON, Minors.

UNPUBLISHED
February 13, 2014

No. 317257
Wayne Circuit Court
Family Division
LC No. 12-510240-NA

Before: MURPHY, C.J., and M. J. KELLY and RONAYNE KRAUSE, JJ.

PER CURIAM.

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

Respondent argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence and in finding that termination of her parental rights was in the children's best interests. In an action to terminate parental rights, the petitioner must prove the existence of one statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355-356; 612 NW2d 407 (2000). This Court reviews the trial court's decision for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich at 356. A finding is clearly erroneous when the reviewing court is left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A decision to terminate parental rights need only be supported by one statutory ground. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009).

Although the evidence clearly established that one child suffered severe physical abuse that caused a life-threatening injury within the meaning of §§ 19b(3)(k)(iii) or (k)(v), the trial court admitted that it was uncertain whether respondent inflicted the abuse. Because those subsections do not apply unless there is clear and convincing evidence that "[t]he parent" abused the child or a sibling in the proscribed manner and the trial court was unable to find that respondent caused the child's severe injuries, the trial court erred in relying on §§ 19b(3)(k)(iii) or (k)(v) as bases for terminating respondent's parental rights.

Nevertheless, there was clear and convincing evidence to support the remaining statutory grounds for termination. Respondent admitted that she whipped her children with a belt as a form of discipline and L. Jackson testified that he once had to intervene to stop the whipping because it had become too forceful. Respondent's reliance on this form of corporal punishment and the evidence that it was excessive permits an inference that respondent physically abused the

children and was reasonably likely to do so in the future; this evidence supported a finding that termination was warranted under § 19b(3)(b)(i). In addition, the evidence showed that respondent had an indifferent or permissive attitude toward the frequent “roughhousing” that went on between her children and R. Jackson, a brother, and a teenage acquaintance. The evidence showed that respondent failed to intervene when the conduct became too violent and instead relied on her three-year-old children to alert her if R. Jackson crossed the line between fun and violence. Respondent’s failure to protect her children from the risk of physical injury is even more apparent in light of her daughter’s statement that one child feared R. Jackson and tried to avoid him. Respondent’s brother and her friend’s teenage child also played roughly with the children, and respondent admitted that the twins constantly fought with each other. Respondent’s indifference to or acceptance of the pervasive aggressive conduct is evidence of her inability or unwillingness to protect the children from the risk of injury or abuse. This evidence supported the trial court’s finding that termination was warranted under §§ 19b(3)(b)(ii) and (b)(iii). It also supports a finding that respondent is unable to provide proper care and custody for her children and that the children are reasonably likely to be harmed if returned to her care. See MCL 712A.19b(3)(g) and (j).

We also reject respondent’s argument that the trial court erred in finding that termination of her parental rights was in the children’s best interests. Once a statutory ground for termination has been established, the court shall order termination of parental rights if it finds by a preponderance of the evidence “that termination of parental rights is in the child’s best interests[.]” MCL 712A.19b(5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). This Court also reviews a trial court’s best interests decision for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich at 356-357. Respondent failed to protect her children from their own and other persons’ aggressive and abusive behavior. She failed to recognize the risk of harm from her lax supervision and permissive attitude toward aggression. Respondent’s poor supervision led not only to the one child’s severe, life-threatening abdominal injuries, but also to prior incidents in which the children were injured and required medical treatment. Respondent’s failure to provide her children with a safe and protective home supports the trial court’s finding that termination of her parental rights was in the children’s best interests.

There were no errors warranting relief.

Affirmed.

/s/ William B. Murphy
/s/ Michael J. Kelly
/s/ Amy Ronayne Krause