

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RYAN CODY SCHOTT and
SPENCER JORDAN SCHOTT, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JEFFREY SCHOTT,

Respondent-Appellant,

and

LAURA SCHOTT,

Respondent.

In the Matter of RYAN CODY SCHOTT and
SPENCER JORDAN SCHOTT, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LAURA SCHOTT,

Respondent-Appellant,

and

JEFFREY SCHOTT,

Respondent.

UNPUBLISHED

June 19, 2007

No. 274169

Macomb Circuit Court

Family Division

LC No. 1993-391803-NA

No. 274170

Macomb Circuit Court

Family Division

LC No. 1993-391803-NA

Before: Bandstra, P.J., and Zahra and Fort Hood, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the trial court order terminating their parental rights to the minor children. We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination has been established by clear and convincing evidence. *In re CR*, 250 Mich App 185, 194-195; 646 NW2d 506 (2002). Here, the trial court concluded that termination was warranted pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if returned). This Court reviews that finding under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a trial court determines that at least one statutory ground for termination has been established by clear and convincing evidence, it is required to terminate parental rights unless it finds from the evidence on the whole record that termination is clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 353. Here, the trial court did not find that termination was clearly not in the children's best interests. This Court also reviews that finding for clear error. *Id.* at 356-357.

The children were first removed from respondents' care days after their birth in 1993 based on allegations that respondent father abused alcohol, and verbally and physically abused respondent mother, and that respondent mother's physical disability prevented her from properly caring for the infants. In less than two months, the children were returned to respondents' care, and the petition was dismissed in 1994. However, the children were removed again in 1995 because of concerns about respondent mother's parenting behavior (allegedly, she raged at the children, improperly disciplined them, and force fed them) and respondent father's failure to protect the children. The children were returned to respondents' care in 1997 but were again removed from respondent mother's care in 2005 based on extensive and severe allegations against respondent mother of abuse (mental, emotional, and physical) and neglect (educational, medical, environmental, and failure to properly feed), as well as respondent father's alleged failure to protect. At the dispositional hearing, the trial court ordered respondents to comply with the parent-agency agreement ("PAA").

Throughout the course of the 15-month proceeding, respondent mother regularly attended therapy sessions but did not benefit from them. At the January 2006 continued permanency planning hearing, respondent mother's therapist indicated that respondent mother continued to lack an understanding of her role in the children coming into care despite the multiple therapeutic approaches the therapist had employed. A parenting inventory and personality test conducted during a psychological evaluation diagnosed respondent mother as being resistant to behavioral changes. This diagnosis was proven accurate as the case proceeded and respondent mother retreated into disputing the veracity of the petition's allegations and claiming she was being discriminated against because of her handicap, instead of addressing the changes that needed to be made to ensure the children's safety if returned to her care. At the termination trial, evidence was admitted that neither respondent was in compliance with the PAA, and that respondents' pattern of blaming others and being uncooperative dated back at least to 1995. It was especially problematic that respondent mother could not own responsibility for her actions because, without that acceptance, there was little hope she could take steps to change her abusive

and neglectful parenting. Given this evidence, the trial court did not clearly err when it terminated respondent mother's parental rights upon the bases of MCL 712A.19b(3)(c)(i), (g), and (j).

Respondent father similarly failed to benefit from his therapy and also lacked insight into his role in the situation. Instead, he preferred to focus on alleged mistakes by others and to make many time-consuming demands upon the worker from the Department of Human Services ("DHS"). On appeal, respondent father argues that he had taken steps to protect the children since he had divorced respondent mother, established his own residence and income, and was willing to sever all ties with respondent mother. However, respondents' divorce occurred several years before this latest proceeding and, afterwards, respondent father allowed respondent mother to remain the children's primary caretaker. Indeed, respondent father made no preparations to care for the children independently of respondent mother at any time during the course of the proceedings. A case in point was respondent father's unsuitable housing, which he seemed unable to adequately repair.¹ When respondent father was cross-examined at the termination trial regarding what he had witnessed in respondent mother's home, he admitted observing respondent mother yell loudly; however, respondent father justified his failure to intervene by stating that it would not have been practical to bring the children to his house at that time. He also never intervened regarding respondent mother's refusal to sign releases of information. Based on this evidence, and respondent father's lack of improvement from the start of this and the 1995 to 1997 proceeding, the trial court did not clearly err when it based termination of his parental rights upon MCL 712A.19b(3)(c)(i), (g), and (j).

The trial court also did not clearly err when it found that termination of respondents' parental rights was not clearly against the children's best interests. MCL 712A.19b(5). Both the DHS worker and the children's therapist testified that the children would be at risk of harm if returned to respondents' care. Other witnesses corroborated their testimony, especially with respect to respondent mother. It was telling that many varied witnesses shared the same concern about the children's safety in the care of respondents. Furthermore, the children's therapist testified the children were not very bonded to respondents, and the children's positive behaviors had increased after their removal from respondents' care. Therefore, the trial court did not clearly err in its best interests determination.

We affirm.

/s/ Richard A. Bandstra
/s/ Brian K. Zahra
/s/ Karen M. Fort Hood

¹ At a February 2006 continued permanency planning hearing, respondent father refused to allow an inspection of his residence and attributed the house's poor condition to insufficient finances, which he claimed was the fault of the DHS for requiring him to participate in therapy sessions intended to benefit the children.