

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of KYLA BELL, ALZAIRE BELL,  
KYLE BELL, KENNETH BELL, and  
AUJHANAIE BELL, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KYLE THOMAS BELL,

Respondent-Appellant,

and

ALICIN AUNDREA CRAWFORD-BELL,

Respondent.

UNPUBLISHED

July 26, 2007

No. 275534

Wayne Circuit Court

Family Division

LC No. 05-443075-NA

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Before: Murphy, P.J., and Talbot and Servitto, JJ.

MEMORANDUM.

Respondent<sup>1</sup> appeals as of right from a final order terminating his parental rights to his five minor children. Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(b)(ii), (3)(g), and (3)(j). Because the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence, and the evidence did not show that termination of respondents' parental rights was clearly not in the child's best interests, we affirm.

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<sup>1</sup> "Respondent" refers to Kyle Thomas Bell only, as respondent Alicin Crawford-Bell is not a party to this appeal.

The children in this matter (all currently under the age of 11) came under the jurisdiction of the trial court due to allegations that the children's cousin Corey (d.o.b. 5/12/88) sexually abused several of the children and that the children's mother, Alicin Bell, was living in the same home as the children despite the fact that she was not to reside with anyone under the age of sixteen years. After a permanent custody hearing, both parents' rights to the children were terminated. Respondent now contends that the requisite statutory grounds for termination of his parental rights were not established.

We review the trial court's findings of fact in termination proceedings for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000).

Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(b)(ii), which provides that a parent's parental rights may be terminated if the child or a sibling of the child has suffered physical injury or physical or sexual abuse and:

The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

The other statutory grounds serving as the basis for termination of respondent's parental rights are when the parent fails to provide proper care for the child and there is no reasonable expectation that the parent will be able to provide proper care within a reasonable time (MCL 712A.19b(3)(g)), and:

There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.  
MCL 712A.19b(3)(j)

In the instant matter, there was clear and convincing evidence that respondent failed to protect his children from abuse when he had the opportunity to do so. There is also clear and convincing evidence of a reasonable likelihood that the children will suffer injury or abuse in the foreseeable future if placed in respondent's home.

In 2000, the children's mother was convicted of first-degree child abuse concerning her six-year-old goddaughter. Mrs. Bell testified at the permanent custody hearing that she had held her goddaughter down while her nephew Corey (then 11 or 12) and her brother sexually assaulted the child, penetrating her not only with their penises but with various household items

as well. Mrs. Bell testified that she had also hit and whipped the child, and placed lit cigarettes on the child's arm and vaginal area.<sup>2</sup> Mrs. Bell served almost four years in prison as the result of her conviction, during which time the children continued to live with respondent. Mrs. Bell indicated she did not know where Corey was living after her release from prison, but that her brother and sister-in-law, Corey's parents, babysat the children in their home.

Mr. Bell acknowledged that Corey was charged, along with his wife, of criminal sexual conduct for the abuse of Ms. Bell's goddaughter. Mr. Bell acknowledged that after his wife was paroled, he allowed the children to go to Corey's parent's home, and while he knew Corey was coming to the home, he thought Corey only visited and stayed for brief periods. While Mr. Bell testified that Corey did not have contact with his children while their mother was incarcerated, Pam Hoskins, a protective services worker who investigated the allegations, testified that Mr. Bell told her that Corey was at his house in 2002 or 2003. Mr. Bell also told her that during that visit, Alzaire told him she saw Corey sexually assault Kyla. Alzaire reported to her therapist that when she told her parents of the abuse, she was told to go back to bed.

Forensic interviewers for a Southgate, Michigan guidance center testified at the permanent custody hearing that Kyla, Kyle, and Kenneth all reported sexual abuse by Corey. Mr. Bell also testified that he believes Corey did sexually abuse his children.

The above establishes that respondent allowed Corey in his home on at least one occasion after he was aware that Corey and Mrs. Bell sexually abused a six-year-old girl. The evidence also establishes that on that occasion, one of his children saw Corey sexually assaulting another of his children. Respondent further allowed his children to go to Corey's parents home, despite the fact that he was aware that Corey, at the very least, visited the home regularly. Clearly, respondent failed to protect his children from a known abuser. Respondent could and should have refused to allow Corey access to his home and children given his history of sexual abuse, but instead repeatedly placed his children in a situation where there was a high likelihood of them being abused and where abuse did, in fact, occur. MCL 712A.19b(3)(b)(ii) has been established by clear and convincing evidence.

While only one of the statutory grounds for termination in MCL 712A.19b(3) need be met in order to terminate parental rights (*In re McIntyre, supra*), MCL 712A.19b(3)(g)) and (j) have also been established by clear and convincing evidence. Respondent's actions in allowing his children to be around a known sexual abuser is sufficient to find that he failed to provide proper care for his children and that there is a reasonable likelihood that the children will be harmed if returned to respondent's home. Respondent's action in allowing Mrs. Bell to reside in his and the children's home after she was paroled lends even more support to this conclusion.

Despite a condition of Mrs. Bell's parole that she could not reside in the same home as children under the age of 16, she lived in the basement of respondent's home and almost immediately became pregnant with the couple's youngest child. Mrs. Bell testified that

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<sup>2</sup> Amy Kudlinski, Mrs. Bell's therapist, testified that in their therapy sessions, Mrs. Bell denied involvement in the sexual abuse.

respondent knew she was not supposed to be living there. Respondent agreed that he knew it was wrong to have his wife living in the home when she was paroled but, while he had some concerns about the safety of his children, he gave his wife “the benefit of the doubt.”

Again, Mrs. Bell was convicted of and spent time in prison for not just the sexual abuse of a child, but for *heinous and tortuous abuse*. Respondent nevertheless downplayed her conviction and apparently valued his relationship with his wife more than he valued the safety of his children. Even today, while the couple reports being involved in divorce proceedings, they continue to reside together. The potential risk of Mrs. Bell abusing the children is obvious, yet respondent allowed her to reside in the same home as the children.

Also disturbing is the fact that Kyle and Kenneth reported that they lived with both their mom and dad but that they were not supposed to tell, or their mom would go to jail. Respondent has demonstrated no sense of concern for either his children’s physical safety or their mental well being, obviously impressing upon the children that they had to keep their living situation a secret or risk being responsible for sending their mother to jail. The evidence having established respondent’s inability to appreciate the risky situations he placed his children in and his failure to demonstrate that the children’s welfare was/is a priority, MCL 712A.19b(3)(g)) and (j) have been met by clear and convincing evidence. There additionally being no clear evidence on the whole record that termination is not in the child's best interests (*In re Trejo, supra*), termination of respondent’s parental rights was appropriate.

Affirmed.

/s/ William B. Murphy  
/s/ Michael J. Talbot  
/s/ Deborah A. Servitto