

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 2, 2012

In the Matter of JUCKETT/MIX, Minors.

No. 307769
Jackson Circuit Court
Family Division
LC No. 11-001388-NA

Before: STEPHENS, P.J., and SAWYER and OWENS, JJ.

PER CURIAM.

Respondent mother appeals as 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), and (j). We affirm.

Respondent does not challenge the statutory grounds for termination. Instead, she argues that termination was not in her children's best interests. Because she does not challenge the trial court's determination that statutory grounds for termination were established by petitioner, we assume that the trial court did not clearly err in finding that the statutory grounds existed. *In re JS & SM*, 231 Mich App 92, 98-99; 585 NW2d 326 (1998), overruled in part on other grounds *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). Once a statutory ground for termination is established, the trial court shall order termination if it finds by clear and convincing evidence that termination is in the best interests of the child. MCL 712A.19b(5); *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). We review the trial court's decision regarding best interests for clear error. *In re Trejo Minors*, 462 Mich at 356-357.

We find that the trial court did not clearly err when it determined that termination of respondent's parental rights was in the best interests of the minor children. The record revealed that respondent's boyfriend sexually abused the older child, and that she reported the sexual abuse to respondent. Despite this child's report of the abuse to respondent, respondent failed to intervene or seek medical attention for the child. Moreover, the record revealed that respondent witnessed her boyfriend touch the older child's breasts and buttocks. And, while the older child was bonded to respondent, the child actually fulfilled a caretaking role for respondent when the child herself needed care and protection. Further, there was evidence that both minor children were doing well in foster care and needed stability and permanency. Additionally, although the older child was the only one who suffered sexual abuse, we find that respondent's failure to protect the older child despite knowing about the sexual abuse is indicative of how she would have reacted to knowledge that the younger child was being sexually abused as well. *In re*

Jackson, 199 Mich App 22, 26; 501 NW2d 182 (1993) (a parent’s treatment of one child is indicative of how the parent will treat the other child). We find on the record before us that the trial court did not clearly err when it found that termination of respondent’s parental rights was in the best interests of the minor children.

Respondent also contends that she should have been afforded reasonable efforts at reunification. “Generally, when a child is removed from the parents’ custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child’s removal by adopting a service plan.” *In re HRC*, 286 Mich App at 462. However, petitioner is not required to provide reunification efforts when the parent fails to intervene to prevent sexual abuse that is perpetrated by a parent or other adult residing in the same household as the minor. *Id.* at 463. See also MCL 722.638(1)(a)(ii); MCL 722.638(2). Accordingly, petitioner was not required to provide respondent with reunification efforts.

Finally, respondent argues that the trial court’s termination decision deprived her of her constitutionally protected liberty interest in raising her children. “Parents have a significant interest in the companionship, care, custody, and management of their children, and the interest is an element of liberty protected by due process.” *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). However, “[o]nce the petitioner has presented clear and convincing evidence that persuades the court that at least one ground for termination is established under [MCL 712A.19b(3)], the liberty interest of the parent no longer includes the right to custody and control of the children.” *In re Trejo Minors*, 462 Mich at 355. Because we presume that the trial court’s finding regarding the unchallenged statutory grounds was not clearly erroneous, respondent’s liberty interest must yield to the state’s interest in protecting the minor children. *Id.* See also *In re Foster*, 285 Mich App 630, 635; 776 NW2d 415 (2009).

Affirmed.

/s/ Cynthia Diane Stephens
/s/ David H. Sawyer
/s/ Donald S. Owens