

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of HARDIN/TOWNSEND/OWENS,  
Minors.

UNPUBLISHED  
February 18, 2014

No. 317057  
Wayne Circuit Court  
Family Division  
LC No. 98-370176-NA

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Before: GLEICHER, P.J., and SAAD and FORT HOOD, JJ.

PER CURIAM.

In this child protective proceeding, respondent-mother appeals by right the circuit court's order assuming jurisdiction over the minor children pursuant to MCL 712A.2(b)(1) and (2). We affirm.

On January 8, 2013, a child protective services (CPS) worker went to respondent's home to investigate allegations that the minor child, AO, was physically assaulted by one of her brothers. During the course of the investigation, the CPS worker spoke to AO. Respondent interrupted the conversation, indicating that AO had made accusations of rape against the respondent's boyfriend. Further inquiry by CPS and other workers revealed that AO was consuming respondent's alcohol. Instead of preventing access to the alcohol, respondent placed a laxative in the alcohol to confirm AO's consumption. Respondent admitted to one worker that she punched the children as a form of discipline. However, to the investigating CPS worker, respondent denied punching the children. Respondent had a prior history with the agency that dated back to 1998, and of 24 cases, ten were substantiated. The CPS worker did not testify regarding the prior substantiations, instead the court indicated that it would take judicial notice of the file. A meeting was held, and it was agreed that a petition would be filed because of daily referrals regarding this family. AO testified at the hearing that she was raped by a stranger when her mother left her alone in the unlocked home. Additionally, AO testified to physical altercations with one of her brothers and physical abuse by respondent. AO was pregnant at the time of the hearing. The court found a substantial risk of harm to the mental well-being of the children in light of the access to the alcohol and the use of laxatives as well as leaving AO alone in the unlocked home.

Respondent argues that petitioner failed to establish sufficient grounds for the court's assumption of jurisdiction over the children. We disagree.

This Court reviews for clear error the circuit court's decision to exercise jurisdiction over a child in a child protective proceeding. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505

(2004). A decision is clearly erroneous if the reviewing court, on the entire evidence, is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

To establish jurisdiction, the petitioner must prove by a preponderance of the evidence that a statutory basis for jurisdiction exists under MCL 712A.2(b), either at trial or by plea. *In re SLH*, 277 Mich App 662, 669; 747 NW2d 547 (2008). A “preponderance of the evidence” means evidence of a proposition that when weighed against the evidence opposed to the proposition “has more convincing force and the greater probability of truth.” *People v Cross*, 281 Mich App 737, 740; 760 NW2d 314 (2008).

In this case, the circuit court assumed jurisdiction pursuant to MCR 712A.2(b)(1) and (2), which provide:

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship.

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(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in.

The testimony established that respondent placed laxatives in a bottle of vodka to confirm her suspicions that AO was consuming alcohol. Respondent also admitted that she punched her children as a form of discipline. There was further evidence that respondent left AO, then 13-years of age, home alone in the late evening hours, during which time she was sexually assaulted by an unknown assailant. AO was physically abused by an older adult sibling also living in the home. Respondent was aware of this abuse, yet failed to protect this child from continued assaults. Additionally, in February of 2013, AO was found to be five to six weeks pregnant. Finally, there was an extensive CPS history, dating back over 10 years, which included substantiated allegations of physical abuse and neglect.

Based upon the foregoing, there was sufficient evidence presented at trial to establish, by a preponderance of the evidence, that respondent neglected the minor children and failed to

provide proper care, that there was a risk of harm to the children's physical and mental well-being, and that respondent's home was unfit. Accordingly, the circuit court properly assumed jurisdiction over the minor children pursuant to MCL 712A.2(b)(1) and (2).

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ Henry William Saad  
/s/ Karen M. Fort Hood