

STATE OF MICHIGAN  
COURT OF APPEALS

---

*In re* J.A. BUFFORD, Minor.

UNPUBLISHED  
March 17, 2015

No. 323738  
Wayne Circuit Court  
Family Division  
LC No. 14-516105-NA

---

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

PER CURIAM.

Respondent-father appeals as of right the trial court’s order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (g), and (j).<sup>1</sup> We affirm.

Respondent first argues that the trial court clearly erred in finding that a statutory ground for termination was proven by clear and convincing evidence. We disagree. “To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established.” *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). “We review for clear error a trial court’s finding of whether a statutory ground for termination has been proven by clear and convincing evidence.” *Id.*; see also MCR 3.977(K). “A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court’s special opportunity to observe the witnesses.” *In re Laster*, 303 Mich App 485, 491; 845 NW2d 540 (2013) (citation omitted).

Initially, we agree that the trial court erred to the extent that it referenced MCL 712A.19b(3)(c)(i) and (c)(ii) as grounds to support termination of respondent’s parental rights. Those subsections apply only where “182 or more days have elapsed since the issuance of an initial dispositional order[.]” MCL 712A.19b(3)(c). Respondent’s parental rights were terminated at the initial dispositional hearing. There was no prior dispositional order. Further, fewer than 182 days had elapsed since the court’s assumption of jurisdiction over the child.

---

<sup>1</sup> Although the trial court’s decision on the record also refers to MCL 712A.19b(3)(c)(i) and (c)(ii), the court’s order terminating parental rights references only MCL 712A.19b(3)(b)(i), (g), and (j). As indicated *infra*, because respondent’s parental rights were terminated at the initial dispositional hearing, MCL 712A.19b(3)(c)(i) and (c)(ii) are not applicable.

Thus, termination was not authorized under MCL 712A.19b(3)(c)(i) and (c)(ii). However, “only one statutory ground for termination must be established[.]” *In re Laster*, 303 Mich App at 495. Because the trial court also found that termination was justified pursuant to MCL 712A.19b(3)(b)(i), (g), and (j), the error was harmless.

MCL 712A.19b(3)(b)(i), (g), and (j) permit termination of parental rights under the following circumstances:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

\* \* \*

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

\* \* \*

(j) 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.

In regard to MCL 712A.19b(3)(b)(i), the evidence showed that the child suffered significant injuries at least twice while under respondent's care. The more recent incident occurred on January 31, 2014, where the child was taken to the hospital with a fractured arm and scratches and bruises on his face, neck, and back. Medical experts determined that these injuries were caused by intentionally inflicted abuse. Despite the fact that the injuries were sustained while the child was in respondent's care, respondent failed to provide a plausible explanation for the injuries. In addition, respondent committed domestic violence against the child's mother in the presence of the minor child, including an incident that occurred about a month after the child's January 31, 2014 injuries. During the incident, respondent assaulted the child's mother while he was holding the minor child. Moreover, the evidence showed that respondent had a criminal history involving assaultive and destructive behavior. Respondent testified that he used to have a “short temper,” but he was “working on it” and it had improved since high school. However, despite this testimony and the fact that respondent had participated in at least two prior anger management courses, the evidence showed that he had not had not resolved his anger management problems or “short temper” because he had since physically abused the minor child and continued to engage in domestic violence. Finally, according to a Clinic for Child Study report prepared in July 2014, respondent “indicated no insight or demonstrated no responsibility for the need for Protective Services and Court involvement,” and his tendency to project blame on his victims “negates any hope that he would take part in services that might be helpful to him.” This evidence indicates that there was a reasonable likelihood that the child would suffer

from injury or abuse in the foreseeable future if placed in respondent's home. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was justified under MCL 712A.19b(3)(b)(i).

The same evidence also supports termination of respondent's parental rights under MCL 712A.19b(3)(g) and (j). Respondent failed to provide proper care by physically abusing the child and committing domestic violence against the child's mother, and respondent's failure to resolve or adequately acknowledge his anger problems showed that there was no reasonable expectation that respondent would be able to provide proper care and custody for the child within a reasonable time considering the child's age. Further, it was reasonably likely that the child would be harmed if placed in respondent's home. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was also justified under MCL 712A.19b(3)(g) and (j).

Respondent also summarily asserts that termination of his parental rights was not in the child's best interests. Once a statutory ground for termination is established, the trial court shall order termination of parental rights if it finds by a preponderance of the evidence that termination is in the child's best interests. MCL 712A.19b(5); *In re Moss*, 301 Mich App at 90. The trial court's best-interest decision is also reviewed for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent argues that termination was not in the child's best interests because he had expressed a desire to be involved in his child's life, and he exhibited housing, parenting skills, and a capacity to be a good father. Regardless of respondent's housing situation, the evidence showed that respondent has a history of violent and destructive behavior, that his infant child suffered unexplained injuries consistent with abuse on at least two separate occasions while in respondent's care, that respondent committed domestic violence in the presence of the minor child, and that respondent was not willing to accept responsibility for his behavior. Notwithstanding respondent's desire to be a father for his child, the evidence showed that the child would not be safe in respondent's custody. Thus, a preponderance of the evidence clearly established that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood