

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALYSSA A. HERNANDEZ,
OVIDO A. HERNANDEZ, DANIEL A.
HICKMAN, and NATHANIEL R. HICKMAN,
Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
November 15, 2005

Petitioner-Appellee,

v

CHRISTINA HICKMAN,

Respondent-Appellant,

and

RYAN CAMPBELL, NATHANIEL HICKMAN,
and GILBERTO HERNANDEZ,

Respondents.

No. 262011
Wayne Circuit Court
Family Division
LC No. 03-422731-NA

Before: Murphy, P.J., and Sawyer and Meter, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(A) and (E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

With regard to § 19b(3)(b)(i), respondent admitted striking her son with a belt, causing bruising on his chest and neck area. Respondent also testified that she "spanked" her other children on occasion, which she explained as "[s]panking them on their butt with the belt." When respondent was asked if she had received any help for this issue, she blamed her son for her conduct. She explained that he had been diagnosed with attention deficit hyperactivity

disorder and she could not get him an appointment at a local mental health clinic. In light of respondent's own testimony, the trial court did not clearly err in finding that respondent caused physical injury to her children and that there was a reasonable likelihood that the children would suffer from injury in the foreseeable future if placed in respondent's home.

Termination is appropriate under § 19b(3)(b)(ii) when a parent had the opportunity to prevent sexual abuse, but failed to do so. In 1999, respondent found Gilberto Hernandez in their five-year-old daughter's bedroom. The daughter told respondent that she had her mouth on Hernandez's private area. Despite learning that Hernandez had sexually abused her daughter, respondent returned to live with Hernandez. According to the foster parent, the daughter revealed subsequent incidents of sexual abuse by Hernandez. The trial court did not clearly err in finding that respondent had an opportunity to prevent the continued sexual abuse, but failed to do so. In light of respondent's past behavior of letting her children stay alone with Hernandez, the trial court did not clearly err in finding that § 19b(3)(b)(ii) was established by clear and convincing evidence.

With regard to § 19b(3)(c)(i), more than 182 days elapsed between entry of the initial dispositional order in September 2003 and the order terminating respondent's parental rights in March 2005. The conditions that led to adjudication were respondent's physical abuse of her son and the domestic violence in the home. Respondent's treatment plan required that respondent participate in parenting classes in order to learn parenting techniques to help her utilize the proper ways to parent her children. Although respondent completed a parenting class, there was no indication that the class helped her learn how to properly discipline her children. Respondent was also ordered to attend individual counseling to address the issue of domestic violence, but the evidence failed to disclose that she attended such counseling. The trial court did not clearly err in finding that the conditions that led to adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time considering the children's ages.

With regard to §§ 19b(3)(g) and (j), as noted previously, respondent admitted striking her son with a belt, causing bruising on his chest and neck area, and spanking the other children with a belt. This behavior, along with the fact that respondent returned to live with Hernandez after learning that he had sexually abused her daughter, and was also physically abusive toward respondent, supports the trial court's finding that respondent failed to provide proper care and custody for her children and that there was a reasonable likelihood the children would be harmed if returned to respondent's care. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was also warranted under §§ 19b(3)(g) and (j).

Finally, the evidence did not clearly show that termination of respondent's parental rights was against the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. Therefore, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ William B. Murphy
/s/ David H. Sawyer
/s/ Patrick M. Meter