

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of HUNTER ANDERSON and
KATIEY ANDERSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILLIAM ANDERSON,

Respondent-Appellant.

UNPUBLISHED

October 19, 2006

No. 269733

Antrim Circuit Court

Family Division

LC No. 03-002409-NA

Before: Cavanagh, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(j). We affirm.

Respondent initially challenges the trial court's assumption of jurisdiction over Katiey, who was born during the pendency of the case. This issue is not preserved for review, because respondent did not object to the trial court's jurisdiction below or appeal from the order following the December 16, 2004 hearing. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993); *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005). To the contrary, all parties stipulated to the trial court's jurisdiction. Further, ample evidence supported the trial court's exercise of its jurisdiction. Under the doctrine of anticipatory neglect and abuse, respondent's treatment of his stepchildren could be used to predict probable treatment of Katiey. *In re Powers*, 208 Mich App 582, 588-593; 528 NW2d 799 (1995). Further, the petition regarding Katiey noted that the mother pleaded no contest to an added allegation in Hunter's petition that disharmony in the family had an adverse effect on the mental well-being of the children, and that respondent was convicted of fourth-degree child abuse in connection with burning his ten-year-old stepdaughter with a lighter. These circumstances clearly supported the trial court's exercise of jurisdiction over Katiey.

Respondent next claims that clear and convincing evidence did not support termination under MCL 712A.19b(3)(j). We disagree. Respondent points to his compliance with the parent agency agreement (PAA) and improvements from therapy and anger management. Compliance with a PAA is evidence of a parent's ability to provide appropriate care. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Here, however, there was a direct conflict in testimony regarding

whether respondent had benefited, or even could benefit, from services to alleviate his problems with anger and aggression. It is not sufficient to “go through the motions” of attending parenting classes, therapy, and other interventions; a parent must benefit to be able to provide a proper home. *Gazella, supra* at 676-677. The trial court, which observed the witnesses and dealt with the case for two years, was in the best position to evaluate the conflicting evidence. In addition to the lighter incident that occurred during court supervision, respondent earlier got into a physical altercation with stepson Riley, causing numerous injuries. He had sent his wife to the hospital with facial bruising and pushed and hit stepdaughter Jadelynn. Between hearings, respondent violated a personal protection order (PPO) and spent 78 days in jail. He was argumentative and uncooperative with Protective Services workers, an in-home therapist, and two doctors. These circumstances support one psychiatry expert’s diagnosis of a severe personality disorder with little or no potential for change, and the trial court’s assessment of potential for harm under subsection (j).

Respondent’s psychiatric expert did not agree with the first psychiatry expert’s diagnosis but nevertheless found problematic behaviors and symptoms going back to respondent’s childhood. Respondent’s psychiatric expert diagnosed probable bipolar disorder and antisocial personality traits. The evidence clearly showed that respondent had severe, long-standing mental health issues that would prevent him from properly parenting Hunter and Katiey. When he stopped his medications, he returned to impulsive and combative behaviors. Respondent’s psychiatric expert thought he would present a danger to the children without ongoing, long-term psychiatric treatment and medication. Respondent’s non-physical discipline of the stepchildren was severe and extreme. The doctrine of anticipatory neglect and abuse supported termination of parental rights to Hunter and Katiey on a theory that these types of behaviors would likely recur with them. *Powers, supra* at 588-593. We find no clear error in the trial court’s decision that clear and convincing evidence satisfied the statutory ground in subsection (j). MCR 3.977(J); *In re Trejo, Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000).

Further, the evidence did not establish that termination of respondent’s parental rights was clearly not in the children’s best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. The children are very young and have little or no bond with respondent. Further, his assaultive, aggressive behavior towards his wife and stepchildren did not bode well for a future nurturing relationship with Hunter and Katiey. The record contained ample evidence to support the trial court’s decision on best interests.

We affirm.

/s/ Mark J. Cavanagh
/s/ Richard A. Bandstra
/s/ Donald S. Owens