

STATE OF MICHIGAN  
COURT OF APPEALS

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UNPUBLISHED  
October 12, 2010

In the Matter of FELVER/SISCO-PADELTA,  
Minors.

No. 296953  
Gratiot Circuit Court  
Family Division  
LC No. 08-007306-NA

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Before: SAWYER, P.J., and FITZGERALD and SAAD, JJ.

PER CURIAM.

Respondent mother appeals as of right from the order terminating her parental rights to the four minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

In order to terminate parental rights, a trial court must find that a statutory ground for termination was established by clear and convincing evidence, and that termination is in the children's best interests. MCL 712A.19b(5). This Court reviews these findings for clear error. MCR 3.977(K); *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record 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). Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appear before it. MCR 2.613(C); *In re Fried*, 266 Mich App at 541.

Respondent does not dispute that the initial requirement of section 19b(3)(c)(i) was met in this case. She argues, however, that the condition that led to adjudication no longer existed because the youngest child's father, Padelt, who physically abused two of the children, had not resided with the family since the children were first removed in April 2008. We disagree.

First, evidence established that respondent allowed Padelt back in her home the day he was released from jail for beating her children. She maintained her relationship with him for another year, a fact of which the children were well aware, and which disturbed them. It was only after Padelt beat respondent in April 2009 that she ended her relationship with Padelt, and only then that she understood that her children had not been at fault when he beat them. Second, there was another condition that led to adjudication, namely respondent's inability, after six years of therapy, to follow recommendations in order to provide her children with desperately needed emotional stability.

When the termination hearing began some 20 months after adjudication, the evidence established that respondent still was not acting as the parent, and she still did not set and enforce boundaries for the children's behavior. The three older children had severe psychological problems from very early ages. Their conditions and behavior improved substantially when they went into foster care, degenerated when they were returned to respondent, improved again after they were removed for a second time, and deteriorated again when they learned of the probability that visitation in respondent's home would be resumed. Experts testified unequivocally that the children would not recover if returned to respondent, and one testified that the oldest child, in particular, would be at immediate risk for delinquency and anti-social personality disorder. Even respondent's witnesses testified that she would only be ready, if at all, in six to twelve months. This evidence clearly established that respondent remained unable to provide the children with the emotional stability they needed at the time of the termination hearing. Moreover, expert testimony also established that the "reasonable time" for respondent to rectify her deep-seated problems had already run out, because the children needed skilled and effective parenting immediately, not in six to twelve months. The trial court did not clearly err in holding that petitioner established this statutory ground by clear and convincing evidence.

Respondent makes no specific argument regarding section 19b(3)(c)(ii). However, the trial court did not clearly err in holding that this statutory ground for termination was met. The new allegations in the supplemental petition filed on April 15, 2009 qualify as "other conditions" under 19b(3)(c)(ii). See *In re Sours*, 459 Mich 624, 636; 593 NW2d 520 (1999). One of these allegations was that respondent had smashed a glass coffee table under which one of the children was hiding. Respondent did not think the coffee table incident was a cause for concern because the child was not hurt. There was evidence that, while she had learned to verbalize the principles of effective parenting, she continued to believe in the acceptability of physical punishment despite repeated counseling to the contrary. This condition had not been rectified.

With regard to section 19b(3)(g), respondent contends that she was providing proper care and custody from the time the children were returned in November 2008 until they were removed again the next April, that they were only removed again because she had contact with Padelt, and that the deterioration in the children's behavior that led to the filing of the petition for termination in September 2009 was not attributable to her because it occurred when the children were out of her care. Again, we disagree.

Respondent did not provide proper care and custody after the children were returned. Respondent's failure to comply with the court's order to have no contact with Padelt is indicative of continuing neglect. *In re Trejo*, 462 Mich 341, 361 n 16; 612 NW2d 407 (2000). Expert evidence established that respondent's choice to maintain her relationship with the man who beat the children was psychologically damaging to the children. Moreover, the children were removed again, not only because respondent was still with Padelt, but also because respondent continued to be unable to establish and maintain structure and boundaries in the home. The children's condition and behavior had deteriorated again when they were returned to her custody, and improved again when they were removed a second time. It is true that the next time their condition and behavior deteriorated occurred after they had been removed, but testimony established that this deterioration was caused by the possibility of being returned to her. The trial court did not err in holding that clear and convincing evidence established this statutory ground.

The trial court also did not err in finding section 19b(3)(j) established. Respondent argues that petitioner did not establish this ground because she cooperated with services and had shown the ability to parent her children effectively, and because she testified that she would stay out of abusive relationships going forward. Again, we disagree.

Clear and convincing evidence from two expert witnesses and several lay witnesses established that the three older children had been severely harmed psychologically as a result of living in respondent's home. There was no evidence that respondent had ever shown the ability to parent her children effectively. Instead, she had exposed them to violent, abusive men and never provided them with the structure or stability that children need from their parents. They were severely harmed by their perception of her as weak, contemptible, and willing to choose a man over them. Expert testimony established unequivocally that the children would suffer harm again if they were returned to respondent.

Finally, the trial court did not err in its determination of the children's best interests. Once a court finds clear and convincing evidence establishing a statutory ground for termination of parental rights, the court must determine whether termination of parental rights is in the best interests of the children. If the court finds that termination is in the children's best interests, the court must then order termination of parental rights. MCL 712A.19b(5). Determination of the children's best interest can be based on the record as a whole. *In re Trejo*, 462 Mich at 353.

Respondent argues that it was in the children's best interests that her parental rights be maintained because she loves her children, can provide for their material needs, has increased her understanding of domestic violence and how it has impacted her children, and scored in the low-medium risk category in all five parenting areas, just as most people would. Finally, respondent argues, her most recent therapist testified there was a bond between respondent and the children.

Respondent simply ignores the evidence that does not support her argument. The record as a whole contains clear and convincing evidence that termination *was* in the children's best interests. Expert testimony from a psychiatrist established that respondent was not bonded to the three older children, and their attachment to her was not healthy attachment. Each developed significant psychopathology from living in respondent's home. After receiving extensive services for many years, respondent still had little, if any, insight into why she repeatedly selected abusive partners. She remained unable to manage her relationships with her children, to understand their needs, and to provide them with a safe environment. Even respondent's own witnesses did not recommend returning the children to respondent but hoped she might be ready in six to twelve months. Expert testimony established that respondent remained at risk for entering yet another abusive relationship due to her lack of emotional and psychological insight. Finally, as expert testimony established, the children would be at great risk if they were returned to respondent, yet would continue to improve with skilled as well as loving parents.

Affirmed.

/s/ David H. Sawyer  
/s/ E. Thomas Fitzgerald  
/s/ Henry William Saad