

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANGEL NAOMI LAMB, ALICIA
NICOLE LAMB, CHAD TRAVIS JONES, and
TABITHA MARIE JONES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOYCE MARIE THRASHER,

Respondent-Appellant.

UNPUBLISHED
October 23, 2003

No. 246309
Kalamazoo Circuit Court
Family Division
LC No. 90-000088-NA

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (g), (j) and (m). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 MW2d 161 (1989). The evidence established that respondent failed to properly care for her children, MCL 712A.19b(3)(g), and that she knew or should have known that her boyfriend was sexually abusing her children, yet failed to take steps to prevent such abuse, MCL 712A.19b(3)(b)(ii). Both respondent and her boyfriend engaged the children in games of a sexually suggestive nature to which the children objected. One child reported sexual touching by the boyfriend to her mother, but respondent refused to believe her. Other signs that warned respondent of possible abuse included the boyfriend's mixing of drugs and alcohol, which emboldened his reserved nature and triggered inappropriate conduct, and the children's provocative behavior and inability to recognize appropriate sexual boundaries. Despite these red flags, respondent continued to leave her children alone with her boyfriend.

There was also sufficient evidence to conclude that there was a reasonable likelihood that the children would suffer injury or abuse in the foreseeable future if returned to respondent's home. MCL 712A.19b(3)(b)(ii), (g) and (j). Despite her participation in extensive counseling and numerous parenting programs, respondent denied that her boyfriend had molested her children, even after the abuse was substantiated. Respondent had a long history of choosing

questionable companions without considering her children's needs, and she failed to recognize sexually inappropriate conduct, such as paying children to view their private areas. Respondent's failure to make significant progress in addressing her own behavior and motivations placed her children at risk of continued victimization.

Finally, there was clear evidence that respondent voluntarily relinquished her parental rights to her oldest daughter in a previous termination proceeding. MCL 712A.19b(3)(m).

Respondent also argues that petitioner failed to make reasonable efforts to reunify her with the children as required by MCL 712A.18f. However, where petitioner seeks termination of parental rights at the initial dispositional hearing, as was done in this case, there is no requirement that petitioner work with respondent toward reunification. MCL 712A.19b(4); MCR 5.974(D), now MCR 3.977(E).

We also find no clear error with the trial court's conclusion that termination of respondent's parental rights would not be contrary to the children's best interests. The record did not show that the court based its best interests determination on insufficient evidence, even though the petitioner's expert witness did not make a recommendation regarding termination. Nor did the court improperly shift the burden of proof to respondent. It is apparent from the record that the court considered the evidence on the whole record in making its determination. *Trejo, supra*, 352-354.

Affirmed.

/s/ Richard A. Bandstra
/s/ Joel P. Hoekstra
/s/ Stephen L. Borrello