

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TDMB, DTDB, TAAB, and ADB,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARVIN DEONNE PHILLIPS,

Respondent-Appellant,

and

NATARSHA MONIQUE MCLEOD,

Respondent.

In the Matter of TDMB, DTDB, TAAB, and ADB,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

NATARSHA MONIQUE MCLEOD,

Respondent-Appellant,

and

MARVIN DEONNE PHILLIPS,

Respondent.

UNPUBLISHED
September 29, 2009

No. 291431
Eaton Circuit Court
Family Division
LC No. 08-016933-NA

No. 291467
Eaton Circuit Court
Family Division
LC No. 08-016933-NA

Before: Murray, P.J., and Markey and Borrello, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right the trial court's order terminating their parental rights to the minor children. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In May 2008, shortly after Aaron was born, petitioner alleged that Tyheim and DeShawn were physically abused. There were marks and bruises on the boys that indicated use of a belt or other instrument used as a whip. All four children were removed from the home, and the court took jurisdiction over the children in June through respondent mother's plea. Her admissions included that she did not have any prenatal care for Tyheim and did not have transportation or insurance at the time; that domestic violence occurred between the parents in August of 2005; that in 2006, she took Tyheim to Delaware without the court's permission; that she has an IQ of 64 and was not receiving income through either employment or the state; and that she physically disciplined the children after they were returned to her care. Although respondents were referred to counseling and other services, their cases were closed due to noncompliance. Petitioner sought termination of respondents' parental rights in December 2008.

After a four-day bench trial, the trial court terminated both parents' parental rights, finding clear and convincing evidence that grounds existed under MCL 712A.19b(3)(b) (child or sibling has suffered physical or sexual abuse and there is a reasonable likelihood the child will suffer abuse in the future if placed in the parents' home), (3)(c)(i) (more than 182 days elapsed since the initial disposition and the conditions that led to termination continued to exist, there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages), (3)(g) (the parents, without regard to intent, failed to provide proper care and custody for the children), and (3)(j) (reasonable likelihood the children will be harmed if returned to the parents' home). In addition, the court found termination was in the children's best interests.¹ MCL 712A.19b(5).

We review for clear error the trial court's findings that a ground for termination has been established. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). The trial court's findings regarding the child's best interest are also reviewed under the clearly erroneous standard. *In re Trejo, supra*.

The trial court did not err in finding sufficient evidence of the four grounds for termination it identified. The evidence showed the children suffered at least mental harm by

¹ We note that the trial court found both that termination of parental rights was "not clearly contrary to the best interests of the children" and also "in the best interest of the children." See MCL 712A.19b(5), as amended by 2008 PA 199, effective July 11, 2008.

living in an abusive environment. Combined with respondent mother's unwillingness to change her sad situation and respondent father's failure to take any responsibility for his violent actions, it seems unlikely that this harmful condition can be rectified in a reasonable amount of time. The mother's developmental disability is not something she can overcome on her own, apparently, and her lack of support means there is little hope the conditions resulting from that, her financial situation and resistance to learning improved parenting, can be rectified. Although the father appears to have the ability to improve his financial situation, his unwillingness to do so over the course of five years is evidence that he is not interested in changing this condition within a reasonable time. Both parents argue that they attended parenting sessions but neither demonstrates that they absorbed anything they were taught. Both blame their failures on external factors, rather than recognizing their own shortcomings created the conditions that led to adjudication. They are therefore not well-positioned to make the required changes in their lives in time to provide a stable home for their children.

Nor did the trial court err in finding termination was in the children's best interests, an issue raised only by respondent father on appeal. Respondent makes no effort to rebut the court's finding that he is a chronically violent person and that domestic violence has had detrimental emotional effects on his children. He does not identify any harmful effects resulting from termination of his rights, and none are found in the record.

We affirm.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Stephen L. Borrello