

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 2, 2012

In the Matter of SHARICK/SCHULTZ, Minors.

No. 306611
Shiawassee Circuit Court
Family Division
LC No. 10-012675-NA

Before: STEPHENS, P.J., and SAWYER and OWENS, JJ.

PER CURIAM.

Respondent C. Sharick appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i) and (c)(i). We affirm.

Respondent argues that the trial court erred in finding that both statutory grounds for termination were established by clear and convincing evidence. We disagree.

In an action to terminate parental rights, the petitioner must prove by clear and convincing evidence that at least one statutory ground for termination in MCL 712A.19b(3) exists. MCR 3.977(A)(3) and (H)(3); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). The trial court's decision is reviewed for clear error. MCR 3.977(K); *In re Trejo*, 462 Mich at 356. A finding is clearly erroneous when the reviewing court is left with the firm and definite conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

MCL 712A.19b(3)(b)(i) permits termination of parental rights under the following circumstances:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

Petitioner presented evidence of respondent's physical abuse of a mentally impaired stepson, who is the sibling of respondent's own children, on at least two occasions. In addition, the evidence showed ongoing domestic violence by respondent toward his spouse and physical violence by respondent toward his other children. Respondent's oldest child, who the trial court found was credible, described respondent's acts of physical violence against her siblings and

testified that she did not believe her siblings would be safe with respondent. Thus, the trial court did not clearly err in finding that respondent physically injured or abused a child or a sibling.

Further, the evidence showed that respondent never resolved his propensity for physical violence. He was resistant to treatment and persisted in minimizing or denying responsibility for his actions. He also failed to follow up with a recommendation for a neuropsychological assessment, which might have provided insight into effective treatment for his physical and psychological problems. After the children were removed, he continued to physically abuse his spouse, who stated that the violence became worse. He was also hostile with caseworkers and angrily confronted a foster parent in a parking lot. In light of this evidence, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would suffer from injury or abuse in the foreseeable future if placed in respondent's home.

MCL 712A.19b(3)(c)(i) permits termination of parental rights under the following circumstances:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

The evidence established that respondent failed to resolve his abusive propensities that led to his children's placement in foster care, and failed to benefit from services. According to one counselor, respondent had difficulty staying focused during counseling sessions and never progressed beyond a superficial level. Another counselor testified that respondent did not make progress in therapy. He never accepted responsibility for the children's situation and persisted in blaming petitioner and his spouse. Respondent attended a Love and Logic parenting class and also STEP parenting classes, but a caseworker testified that respondent did not show any improvement in his parenting skills. Respondent also failed to obtain stable housing. At the time of the termination hearing, he was homeless and staying with a friend, and he did not have a consistent income. Respondent also failed to attend the recommended neuropsychological evaluation. Further, respondent continued to engage in domestic violence against his spouse. Respondent was also taking several different medications that, according to a caseworker, impaired his parenting, but he made no progress in substance abuse treatment. Indeed, he thwarted petitioner's attempt to obtain a hair sample for drug testing by shaving all of his body hair and refusing to provide a hair sample from his eyebrow. The evidence clearly supports the trial court's determination that the conditions that led to the adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time.

Accordingly, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.

Affirmed.

/s/ Cynthia Diane Stephens

/s/ David H. Sawyer

/s/ Donald S. Owens