STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of RICKY WAYNE JOHNSON,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RICKY WAYNE JOHNSON, SR.,

Respondent-Appellant.

UNPUBLISHED
August 30, 2005

No. 258351
Ingham Circuit Court
Family Division
LC No. 00-470493-NA

In the Matter of RICKY WAYNE JOHNSON,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROTUNDA JOHNSON,

Respondent-Appellant.

No. 258352
Ingham Circuit Court
Family Division
LC No. 00-470493-NA

Before: Cooper, P.J., and Bandstra and Kelly, JJ.

PER CURIAM.

In these consolidated appeals, respondent-father Ricky Wayne Johnson, Sr., appeals from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i),[1]

---

[1] MCL 712A.19b(3)(c)(i) provides for termination if:

(continued…)

(g),[2] and (j).[3] Respondent-mother Rotunda Johnson appeals from the same order terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), (j), and (m).[4] We affirm.

The trial court did not clearly err in finding that at least one statutory ground for termination was established by clear and convincing evidence.[5] The minor child was taken into custody due to domestic abuse between the respondent parents. In June of 2001, police responded to an altercation in which respondent-father broke respondent-mother's arm. Police had responded to domestic disputes at their home on two prior occasions. Respondent-mother had previously secured personal protection orders against respondent-father in both 2000 and 2001. The child was originally allowed to stay with respondent-mother on the condition that respondent-father have no contact with her or the child. In August of 2001, however, the child was placed in foster care when caseworkers found respondent-father hiding in the basement of respondent-mother's home. Respondent-mother was subsequently granted unsupervised visitation. In the fall of 2002, respondent-father was twice seen with the child, in violation of the court order, during her visitation.

Respondent-mother successfully utilized many services, including anger management and domestic abuse counseling, and the child was returned to her care in February of 2003. In the following months, respondent-father twice came to her home intoxicated and attempted to gain entrance. In May of 2003, respondent-father bit respondent-mother on the leg during an altercation at her home while the child was present. Respondent-mother chased respondent-father out of the house with a kitchen knife. She reported the incident to her caseworker, who instructed her to seek medical attention, file a police report, and obtain a PPO. The same day that respondent-mother applied for a PPO, a caseworker again found respondent-father in the

---

(…continued)

> 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.

[2] MCL 712A.19b(3)(g) provides for termination if "The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age."

[3] MCL 712A.19b(3)(j) provides for termination if "There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent."

[4] A parent's right may be terminated pursuant to MCL 712A.19b(3)(m) if "The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state."

[5] MCR 3.977(J); *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003).

home. Although she initially denied his presence, respondent-mother testified that she had invited respondent-father over while the child was at school to discuss their divorce and to ask him to leave the state. The child was subsequently removed from respondent-mother's care.

The testimony from psychologists and caseworkers reveals that the child could safely remain in respondent-mother's care without respondent-father's presence. Respondent-father minimizes his abuse of respondent-mother and blames his abusive conduct on respondent-mother's mental illness. Respondent-mother also blames herself, attributing respondent-father's violent behavior to her "mood swings." Respondent-mother has had difficulty severing ties with respondent-father. Respondents were divorced during the proceedings; however, they were subsequently seen together on several occasions.[6]

Based on the evidence of respondent-father's indifferent attitude regarding his abuse of respondent-mother, his continued abuse during these proceedings, and his failure to successfully complete the service programs to which he was referred, the trial court properly found grounds to terminate his parental rights. Respondent-mother loves her child and has made significant efforts toward reunification. However, the purpose of child protective proceedings is the protection of the minor child.[7] The evidence shows that respondent-mother is unable to protect herself and the child from respondent-father. Accordingly, the trial court properly found that a statutory ground for terminating her parental rights had been established as well.[8]

Further, the evidence did not show that termination of respondents' parental rights was clearly contrary to the child's best interests.[9] The child had a strong bond with his parents, especially respondent-mother. He told caseworkers that he wanted to live with his mother. He was excited when they were reunited and exhibited behavioral problems when he was placed into

---

[6] Respondents testified that respondent-mother was actually with her teenaged son, whom they claimed looks very similar to respondent-father.

[7] *In re Brock*, 442 Mich 101, 108; 499 NW2d 752 (1993); *In re Ramsey*, 229 Mich App 310, 314; 581 NW2d 291 (1998).

[8] Respondent-mother also argues that the trial court erred in taking judicial notice of the fact that her parental rights to her older children had been voluntarily relinquished after initial proceedings had begun. However, respondent-mother admitted at trial that a petition had been filed and that she voluntarily relinquished her rights to the children, allowing her stepfather to adopt them.

[9] MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

foster care. A psychologist testified that termination of respondent-mother's parental rights would be devastating to the child. However, as the child's safety was at issue, the trial court properly determined that termination was not contrary to his best interests.

Affirmed.

/s/ Jessica R. Cooper
/s/ Richard A. Bandstra
/s/ Kirsten Frank Kelly