

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ISAC SOUTHARD, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RONALD DALE SOUTHARD, JR.,

Respondent-Appellant,

and

BONNIE J. SOUTHARD,

Respondent.

UNPUBLISHED
September 16, 2008

No. 283599
Kent Circuit Court
Family Division
LC No. 06-052115-NA

In the Matter of AARON HUGH SOUTHARD,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RONALD DALE SOUTHARD, JR.,

Respondent-Appellant,

and

BONNIE J. SOUTHARD,

Respondent.

No. 283600
Kent Circuit Court
Family Division
LC No. 06-054798-NA

In the Matter of ALEXANDER AMSHEY, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RONALD DALE SOUTHARD, JR.,

Respondent-Appellant,

and

BONNIE J. SOUTHARD,

Respondent.

No. 283601
Kent Circuit Court
Family Division
LC No. 06-052114-NA

In the Matter of ISAC SOUTHARD, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BONNIE J. SOUTHARD,

Respondent-Appellant,

and

RONALD DALE SOUTHARD, JR.,

Respondent.

No. 283602
Kent Circuit Court
Family Division
LC No. 06-052115-NA

In the Matter of AARON HUGH SOUTHARD,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

BONNIE J. SOUTHARD,

Respondent-Appellant,

and

ROBERT DALE SOUTHARD, JR.,

Respondent.

No. 283603
Kent Circuit Court
Family Division
LC No. 06-054798-NA

Before: Meter, P.J., and Hoekstra and Servitto, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court's order terminating their parental rights to Isac and Aaron Southard and respondent father's parental rights to Alexander Amshey under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that statutory grounds for termination of respondents' parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions leading to the children's wardship were three bruises and a bite mark to Alexander on separate occasions, respondents' questionable ability to provide adequately for Alexander's development and well-being as indicated by respondents' and Alexander's psychological evaluations, and the consequent concern for the well-being of the other children. More than 182 days elapsed between the August 10, 2006, and December 11, 2006, initial dispositions and the conclusion of the termination hearing on December 5, 2007. See MCL 712A.19b(3)(c).

It was undisputed that six-year-old Alexander had special needs, and the evidence showed he had unusually serious behavioral issues and was a difficult child to parent. Two-year-old Isac exhibited similar behavioral issues as well as severe sensory deprivation and speech impairment. Aaron, removed from respondents at birth, was developmentally on target and too young to undergo a behavioral assessment. Respondents did not abuse substances, had no significant housing or employment issues, and had minor financial issues. Respondents' personal relationship, whether or not considered as evidencing "domestic violence" by the various parties' definitions, was of concern as indicative of an ineffective manner of relating to and treating the children and others.

The crux of this proceeding was the allegation that respondents could not adequately provide for the children's development and well-being, which goes to the very heart of what constitutes providing proper care and custody of a child. Alexander's unexplained physical injuries and respondents' failure to address his behavioral issues adequately during the three

years he was in their custody clearly provided a preponderance of evidence warranting the trial court's assumption of jurisdiction over the children. MCL 712A.2(b)(1); MCR 3.972(C).

Likewise, clear and convincing evidence was presented warranting termination of respondents' parental rights. The evidence presented to the trial court was voluminous, and because child protective proceedings are considered one continuous proceeding, included evidence from the 2002 child protective proceeding during which the trial court terminated the parental rights of Alexander's biological mother. In addition, the trial court received evidence of referrals and provisions of services during the three years respondents had custody of Alexander, as well as the evidence produced from May 2006 to December 2007, during the instant proceeding.

During the 2002 proceeding, respondent father's September 2002 psychological evaluation, conducted three months after Alexander was placed in respondents' home, revealed that he felt he was a competent parent who, when asked in what areas he might improve, stated he did not need improvement in any area, and whose parenting philosophy was to let children do what they wanted as long as they were good. At that time, petitioner assessed respondent father's parenting ability very highly, but one year after assuming Alexander's custody, respondents became the subject of referrals alleging their inappropriate and ineffective discipline of Alexander. Psychological evaluations in February 2006, three months before the children's removal from respondents' home, showed respondents did not recognize the seriousness of Alexander's behavioral issues and took no responsibility for contributing to them. Respondents were defensive, unwilling to admit personal weakness, and showed a marked lack of insight in believing that the children's behaviors and poor hygiene were normal and not of concern.

The evidence showed that respondents' attitudes did not significantly change after removal and during the 16 months following initial disposition, despite their having completed two general sets of parenting classes, a one-to-one Partners in Parenting program, the CHADD program,¹ domestic violence counseling through the YWCA, 20 sessions with a couples counselor, and additional sessions with individual counselors. While they identified the cause of the children's wardship as their inability to parent Alexander properly, respondents consistently denied and minimized the fact that their parenting deficits and home environment may have contributed to Alexander's and Isac's special needs. Instead, they blamed Alexander and his biological mother for his behavioral issues and did not feel Isac's issues were of particular concern. Testimony after 14 of 20 sessions with couples counselor Mark Olthoff showed that respondents had made some progress in acknowledging and addressing mutual verbal abuse in their home, but Olthoff rated their chance of reunification with the children as approximately 58 percent. After respondent mother had completed several months of counseling at the YWCA and respondent father had completed a 26-session domestic violence program, respondents' respective counselors noted that they had made some progress but had not yet internalized the information. Respondent mother denied any problem in respondents' relationship or home, despite respondent father's frequent displays of anger and use of intimidation toward her, the

¹ This is evidently a program geared toward adults or children with attention-deficit/hyperactivity disorder.

children, and others. Testimony showed respondent mother had internalized the concepts discussed in CHADD, but despite all parenting classes, respondents threatened time-outs, but did not follow through, during visits with the children. In addition, the evidence showed that respondents did not fully cooperate with the caseworker in providing evidence of respondent father's medications and income and expense information.

The trial court recognized the true issue as not whether respondents could recite improvement in their relationship and parenting skills, but whether they had internalized the information, were willing to correct deficits, and demonstrated new skills at visits with the children. Given respondents' continued blame of Alexander and his biological mother for his issues, and respondents' long-standing denial and minimization of their parenting deficits and the severity of the children's issues, the trial court did not clearly err in finding that respondents had not rectified the condition of inability to provide proper care for the children and were not reasonably likely to do so within a reasonable time. In the absence of substantial change, it correctly found a likelihood of harm to the children if returned to respondents' care.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The evidence showed that Alexander and Isac were bonded to respondents, while Aaron had been removed at birth and was likely not bonded to them. It was uncontroverted that Alexander had very special needs and required extreme patience and superior parenting, and Isac, whose only parenting had been by respondents before removal, suffered similar behavioral issues, severe sensory deprivation, and other delays. The evidence showed that after removal from respondents' care, Alexander's behaviors were addressed, he was taught proper hygiene and learned skills making him socially acceptable to his peers, and no longer suffered continual unexplained injuries. Isac received from his foster parent badly needed services to address his sensory deprivation, behavioral issues, and speech impairment. In contrast, respondents continued to blame Alexander for his own behavior and their involvement with protective services and did not acknowledge the severity of Isac's issues.

Given the evidence that respondents were not willing to admit, adequately, the parenting deficits or problems in their home, or acknowledge that those factors had contributed to the children's wardship, they were not likely to change the conditions in their home and parenting significantly, and the trial court did not clearly err in finding termination of respondents' parental rights in the children's best interests.

Lastly, the trial court did not err in finding that petitioner made reasonable efforts to reunify the family. Whether reasonable efforts were made is a question of fact this Court reviews under the clearly erroneous standard. See MCR 3.977(J) and *Miller, supra* at 337. Respondents were consistently serviced by caseworker Jennifer Crowell. The evidence showed that she met with respondents approximately every two weeks but that respondents were often defensive, failed to provide information regarding respondent father's medications or their income and expenses consistently, occasionally stormed out of meetings with her, and felt some services she recommended were ridiculous and unnecessary. Now, on appeal, respondent father argues that not enough services were offered, specifically, family therapy and longer visits in a more natural environment.

Respondents desired family therapy and extended visits to demonstrate improvement in their parenting skills. However, respondents attended weekly visits with the children during which they had an opportunity to demonstrate concepts learned, and Jennifer Crowell did not feel family therapy sessions or other visits were needed for this purpose. The evidence showed that respondents failed to follow through on implementing time-outs for the children during supervised visits. Respondents' counselor, Mark Olthoff, recommended family therapy, but admitted he did not have all facts concerning why the children entered care. Alexander's therapist, Don Lappinga, was opposed to family therapy and felt it would be contrary to Alexander's well-being because Alexander spoke fearfully of respondent father's prior physical abuse. Thus, the trial court was presented with valid evidence regarding why family therapy was not instituted.

While extended visits are implemented in some cases to clarify whether a respondent's interpersonal relationships and parenting skills have improved, by the one-year permanency planning hearing respondents had not made progress sufficient to warrant them, and termination of parental rights had become the agency goal. Respondents had failed to demonstrate improved parenting skills during the visits allotted, and there is no evidence that allowing longer visits or visits in a more natural setting would have altered their abilities.

Affirmed.

/s/ Patrick M. Meter
/s/ Joel P. Hoekstra
/s/ Deborah A. Servitto