

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CRAIG BERNARD JONES, JR.,
and TRAVAUGHN JONES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CRAIG BERNARD JONES,

Respondent-Appellant,

and

VERONICA ALLEN,

Respondent.

In the Matter of CRAIG BERNARD JONES, JR.,
and TRAVAUGHN JONES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

VERONICA ALLEN,

Respondent-Appellant,

and

CRAIG BERNARD JONES,

Respondent.

UNPUBLISHED
February 3, 2005

No. 256584
Wayne Circuit Court
Family Division
LC No. 03-420997

No. 256665
Wayne Circuit Court
Family Division
LC No. 03-420997

Before: Zahra, P.J., and Neff and Cooper, JJ.

MEMORANDUM.

In these consolidated appeals respondents appeal as of right from the trial court order terminating their parental rights to the minor child, Craig Bernard Jones, Jr., under MCL 712A.19b(3)(b)(i), (b)(ii), (g), (k)(iii), and (k)(v). We affirm. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interest. *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000). While petitioner did not establish which parent's act caused the physical injury or abuse, petitioner did establish that there was physical injury or abuse by one or both of respondent parents and that the other parent had the opportunity to prevent the abuse and failed to do so. Further, petitioner established that there was a reasonable likelihood that Craig would suffer injury in the foreseeable future if placed in the parents' home. At five months old, Craig had three fractures in different stages of healing and although the fractures might not have been visible to a layperson, Craig would have been in a lot of pain from the rib fractures and would not have moved his fractured leg. This evidence established all of the statutory grounds for termination. Also, the trial court properly concluded that termination of respondents' parental rights was in the best interests of the child.

Respondent parents also argue that the trial court erred in terminating their parental rights without allowing them the opportunity to participate in a treatment plan. We disagree. The requirements of MCR 3.977(E) were satisfied.

Finally, respondent mother argues that she was denied the effective assistance of counsel by her counsel's failure to argue in support of a filing she made herself. On the limited record available to the Court, we find no evidence that respondent mother's counsel's performance fell below an objectively reasonable standard. *People v Stanaway*, 446 Mich 643, 687-688; 521 NW2d 557 (1994).

Affirmed.

/s/ Brian K. Zahra
/s/ Janet T. Neff
/s/ Jessica R. Cooper