

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DLS and CRS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ALICIA MARIA SAYLOR,

Respondent-Appellant.

UNPUBLISHED
November 5, 2009

No. 291164
Saginaw Circuit Court
Family Division
LC No. 08-031540-NA

Before: Jansen, P.J., and Fort Hood and Gleicher, JJ.

PER CURIAM.

Respondent appeals by right the circuit court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(ii) and (j). For the reasons set forth in this opinion, we affirm.

Respondent argues that the circuit court erred by finding that the statutory grounds for termination were established by clear and convincing evidence and by finding that termination of her parental rights was in the children's best interests. We disagree.

At least one statutory ground for termination contained in MCL 712A.19b(3) must be proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once the court finds "that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). We review for clear error the circuit court's findings of fact. MCR 3.977(J). A court's finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with the definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

This matter came to the attention of petitioner when respondent's husband admitted to the police that he had sexually abused at least one of the minor children. Before the husband's admission, respondent had been informed by one of the children that her husband was doing "bad things." Respondent did not immediately intervene, and initially allowed her husband to have continued unsupervised contact with the children. Respondent's failures in this regard led to further sexual abuse, which apparently continued until respondent's husband was arrested.

Once the minor children were removed from respondent's custody, respondent refused to participate in services offered by petitioner. Respondent believed that petitioner's goal was the termination of her parental rights, and therefore refused to comply with several of petitioner's requests. Instead, respondent decided to seek her own services. However, as the circuit court correctly observed, respondent's actions in this regard were problematic because respondent continued to ignore the conditions that had led to the filing of the petition in this case. Rather than address these conditions, respondent chose to seek her own services. These services of respondent's own choosing did not address the impetus for the petition, but rather dealt with unrelated concerns that had little or no bearing on respondent's parental fitness.

The circuit court found that the testimony of respondent's therapist was of little value because it was wholly premised on self-serving information provided by respondent. This information provided by respondent did not comport with the other evidence presented in this case. And although respondent testified on her own behalf, the circuit court found that respondent's testimony was not credible. Respondent had taken no steps to file for divorce from her abusive husband. Nor does it appear, contrary to the testimony of respondent's therapist, that respondent had experienced a "breakthrough" in this case. In light of respondent's jail conversations with her husband, as well as respondent's failure to divorce him, the circuit court found that respondent had not experienced a "breakthrough." In addition, respondent was uncooperative when petitioner requested necessary consent or information for the purpose of providing medical treatment for the minor children. We defer to the circuit court's superior opportunity to view the demeanor of the witnesses and judge the credibility of their testimony. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The court's findings were based largely on multiple factors that had occurred since the report of abuse, many of which demonstrated that respondent had failed to protect her children. In light of this evidence, we cannot conclude that the circuit court erred by finding that respondent failed to protect her children despite the opportunity to do so.

In short, respondent failed to take even minimal steps toward compliance with petitioner's requirements. Moreover, she did not protect her children from known harms, and there was no evidence that she was reasonably likely to do so within the foreseeable future. We cannot conclude that the circuit court clearly erred by finding that the statutory ground for termination contained in § 19b(3)(j) was proven by clear and convincing evidence.¹ MCR 3.977(J). Nor did the circuit court clearly err by finding that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). Although it is clear that the children loved and cared for their mother, the proofs revealed that respondent would likely continue the practice of failing to protect her children from harm. As the circuit court properly observed, the children simply would not be safe if returned to respondent's care. We cannot conclude that the circuit court clearly erred in its best-interests determination. MCR 3.977(J).

¹ Having determined that petitioner introduced sufficient evidence to prove the statutory ground for termination contained in § 19b(3)(j), we need not consider whether there was sufficient evidence to prove the ground contained in § 19b(3)(b)(ii). Only one statutory ground for termination need be proven to support termination of a respondent's parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Affirmed.

/s/ Kathleen Jansen

/s/ Karen M. Fort Hood

/s/ Elizabeth L. Gleicher