STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of COLEMAN Minors.	UNPUBLISHED May 10, 2012 Nos. 306893; 306894 Berrien Circuit Court Family Division LC No. 2011-000035-NA
In the Matter of J. COLEMAN, Minor.	Nos. 306895; 306896 Berrien Circuit Court Family Division LC No. 2011-000062-NA

Before: WHITBECK, P.J., and SAWYER and HOEKSTRA, JJ.

PER CURIAM.

In these consolidated cases, respondent-mother and respondent-father appeal as of right the trial court's orders terminating their parental rights to their three minor children. The trial court terminated the parental rights of both respondents pursuant to MCL 712A.19b(3)(g) and (j), and found that termination of respondent-mother's parental rights was additionally justified under MCL 712A.19b(3)(l). Because we conclude that the trial court was not required to provide additional services to respondents before terminating their parental rights, we affirm.

Respondents are married, and had three minor children together, CC, MC, and JC. Respondent-mother had two minor children before her involvement with respondent-father; however, her parental rights to those minor children were terminated in October 2009. Docket No. 306893 is respondent-mother's appeal of the trial court's October 20, 2011 order terminating her parental rights to CC and MC, and Docket No. 306894 is respondent-father's appeal of the same trial court order terminating his parental rights to CC and MC. Docket No. 306895 is respondent-mother's appeal of the trial court's separate October 20, 2011 order terminating her parental rights to JC, and Docket No. 306895 is respondent-father's appeal of the same trial court order terminating his parental rights to JC.

In October 2010, Children's Protective Services (CPS) substantiated a case of physical abuse by respondent-father against CC, in which respondent-mother failed to protect the minor child. Respondents were offered and participated in services, and the case was closed without court involvement.

In June 2011, CPS again became involved with respondents. CPS arranged for CC to be examined at a hospital emergency room. The minor child, who was two years old, had multiple bruises of different ages on his body that were consistent with child abuse. The bruises were not the type generally associated with childhood minor trauma or accidental injury. The pattern of bruising was consistent with the minor child being struck with something, and the minor child had defensive-type bruising on the inside of his arm. The minor child also had a black eye that appeared to be three to five days old, and linear scars across his neck.

In response to the evidence of abuse, petitioner filed a petition requesting termination of respondents' parental rights to CC and MC at the initial dispositional hearing. After respondent-mother gave birth to JC in August 2011, a second petition was filed that requested termination of respondents' parental rights to JC as well.

The requests for termination of both respondents' parental rights to all three minor children were combined and considered by the trial court during the same hearings. The first dispositional hearing and hearing regarding termination was held on August 21, 2011; the hearing was continued on September 23, 2011, and October 6, 2011. On October 19, 2011, the trial court issued its decision on the record. The trial court held that there was a preponderance of the evidence to support taking jurisdiction over the minor children, and that at least one statutory basis for termination was proved by clear and convincing evidence. The trial court concluded by finding that it was in the best interests of the minor children to terminate respondents' parental rights. Conforming orders were entered terminating respondents' parental rights to all the minor children on October 20, 2011. Respondents now appeal as of right.

On appeal, respondents both argue that the trial court clearly erred in terminating their parental rights. Specifically, both respondents maintain that the trial court erred in terminating their parental rights at the initial dispositional hearing without providing them more time to work on a treatment plan to improve their parenting skills and rectify problems. Respondents do not allege that the petitioner failed to establish clear and convincing evidence of at least one statutory ground for termination.

In order to terminate parental rights, a trial court must find that at least one statutory ground for termination in MCL 712A.19b has been proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination is established, the court shall order termination of parental rights if it finds "that termination of parental rights is in the child's best interests[.]" MCL 712A.19b(5). We review the trial court's findings of fact for clear error. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). The trial court's best interests decision is also reviewed for clear error. *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich at 152. Deference is given to the trial court's assessment of the credibility of the witnesses. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

In general, petitioner is required to make reasonable efforts to rectify the conditions that caused the minor child's removal from a parent's home through the adoption of a service plan, MCL 712A.18f. See also MCL 712A.19(7); MCL 712A.19b(5); *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008). Parental rights should not be terminated if the petitioner was required to

make reasonable efforts to reunite the family, but did not provide the services necessary for the child to return home. *In re Mason*, 486 Mich at 158-159. However, reasonable efforts to reunify the minor child and family are not required where a parent's rights to a child's sibling were previously involuntarily terminated, or where a child has been subject to severe physical abuse and the parent was either the perpetrator of the abuse or failed to intervene to eliminate the risk of harm. *Id.* at 152; MCL 712A.19a(2)(a) and (c); MCL 722.638(1) and (2).

In this case, respondent-mother's parental rights to two other children were previously involuntarily terminated; accordingly, petitioner was not obligated to provide a treatment plan to work toward reunification. We disagree with respondent-mother's argument that the trial court should have nevertheless afforded her additional time to work on a treatment plan because she was only 20 years old when her parental rights to her other children were terminated, and she has since matured. Services were previously offered to respondent-mother and respondent-father after the incident of child abuse was substantiated in October 2010. Those services included counseling and parenting classes, and addressed the use of non-physical forms of discipline. Despite those services, CC was subjected to ongoing physical abuse that was discovered less than a year later. A parent's treatment of one child is probative regarding how that parent may treat other children. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001).

We also disagree with respondent-mother's argument that a report summarizing her participation in a parenting class in August and September 2011 establishes that the trial court erred in terminating her parental rights. The report characterizes respondent-mother's performance as average. The evidence also indicated that respondent-mother had twice attended other parenting classes in the past, yet was unable to apply proper parenting skills while actually caring for the children. The trial court was justified in giving greater weight to respondent-mother's actual past history of caring for her children. Considering the history of services that have already been offered to the family and respondent-mother's failure to benefit from those services, the trial court did not clearly err in rejecting respondent-mother's argument that she should be afforded an opportunity to participate in further services, or that additional services were necessary to serve the children's best interests. Thus, the trial court did not clearly err in terminating respondent-mother's parental rights to the minor children.

Respondent-father similarly argues that the trial court erred by terminating his parental rights at the initial dispositional hearing instead of providing him with an opportunity to participate in reunification services. We disagree. Contrary to what respondent-father argues, the trial court did not rely on the termination of respondent-mother's parental rights to her two other children to find that respondent-father's parental rights should be terminated without the opportunity to participate in services. The trial court expressly found that the circumstances involving respondent-mother's two other children were limited to respondent-mother. Instead, the trial court found that the circumstances involving the abuse of CC justified termination of respondent-father's parental rights at the initial dispositional hearing.

Reasonable efforts to reunify a child with his family are not required where a child has been subjected to aggravated circumstances as provided in section 18(1) and (2) of the child protection law. MCL 712A.19a(2)(a). MCL 722.638 provides, in relevant part:

> (1) The department shall submit a petition for authorization by the court under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2, if 1 or more of the following apply:
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> (a) The department determines that a parent, guardian, or custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included 1 or more of the following:
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> * * *
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> (*iii*) Battering, torture, or other severe physical abuse.
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> (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the department shall include a request for termination of parental rights at the initial dispositional hearing as authorized under section 19b of chapter XIIA of 1939 PA 288, MCL 712A.19b.

The evidence in this case showed that CC was the victim of physical abuse in 2010, when respondent-father admitted striking the 1-1/2-year-old child with a switch. Less than a year later, CC was diagnosed with additional injuries that were at various different stages and were consistent with child abuse, and inconsistent with accidental trauma. Specifically, CC had bruises all over his chest, back, and torso and had scars on his neck. The evidence supported a finding that respondent-father continued to either physically abuse CC or place him at an unreasonable risk of harm by failing to take reasonable steps to intervene to eliminate the risk of abuse. Therefore, petitioner was justified in requesting termination of respondent-father's parental rights at the initial dispositional hearing without offering additional services toward reunification because the evidence demonstrated that CC was subjected to severe physical abuse. The abuse of CC was sufficient to support termination of respondent-father's parental rights to MC and JC as well. MCL 722.638(1)(a); *In re AH*, 245 Mich App at 84. Further, the fact that respondent-father failed to benefit from the services that were previously provided supports the trial court's decision to terminate respondent-father's parental rights without providing additional services. Therefore, we conclude that the trial court did not err in terminating respondent-father's parental rights to the children.

Affirmed.

/s/ William C. Whitbeck
/s/ David H. Sawyer
/s/ Joel P. Hoekstra