

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of FORTENBERRY, Minors.

UNPUBLISHED
July 2, 2013
No. 314377
Ingham Circuit Court
Family Division
LC No. 12-001492-NA

Before: OWENS, P.J., and GLEICHER and STEPHENS JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating his parental rights¹ to three of his minor children under MCL 712A.19b(3)(g) (failure to provide proper custody/care) and (j) (reasonable likelihood of harm to child), and MCL 712A.19.b(5). We conclude the trial court did not clearly err by determining that at least one statutory ground for termination existed and a preponderance of the evidence established termination was in the children's best interests. Accordingly, we affirm.

On September 24, 2012, respondent was involved in a domestic violence incident with the children's mother. He was subsequently imprisoned and charged with assault with intent to do great bodily harm, domestic aggravated assault, assault with intent to murder, torture, and unlawful imprisonment. At the time of termination of his parental rights, his trial had not commenced.

I. STATUTORY GROUNDS

The trial court did not err in concluding that the statutory grounds for termination were proven by clear and convincing evidence. MCR 3.977(K); *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

¹ The mother retained her parental rights; however, the children remain in the relative foster home of their maternal aunt and her husband, while she receives services. She is living with her cousin.

The evidence established that respondent committed numerous instances of domestic violence within his household while his children were present. We reject respondent's argument that since his abuse was limited to the mother the trial court erred in finding that he was unable to adequately parent the children and in further determining that the children would be at risk in his care. Respondent admits that he assaulted the children's mother as well as other women with whom he had children. He was the recipient but not the beneficiary of services to address prior instances of domestic violence. In an interview with a department agent within days of the September 24 incident, respondent failed to take any responsibility for his assaultive behavior and blamed the victim. The court properly considered the profound and life-long effects that the abusive home life could have on the children. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011). The trial court made this analysis looking at each child separately. Specifically, the court determined that respondent's example of fatherhood would "... teach his daughters how to take a punch. And he is instructing his sons how to give one." The court's determination that his abuse was not likely to end and that that behavior demonstrated his inability to parent and subjected his children to a substantial likelihood of continued harm was supported by the record.

II. BEST INTEREST ANALYSIS

The trial court did not err in finding by a preponderance of the evidence that termination of respondent's parental rights was in the children's best interest. *In re Moss Minors*, ___ Mich App ___; ___ NW2d ___ (Docket No. 311610, issued May 9, 2013), slip op p 6.

Respondent argues that he had strong bonds with each child and had appropriately disciplined them. However, he fails to appreciate the detrimental impact that the abusive nature of the family home has on his children's emotional welfare. Neither his emotional connection nor his assertions that he would not physically harm his children overcomes the strong evidence that he will continue to subject these children to an abusive environment which is clearly not in any child's best interest.

Finally, the court properly considered the fact that the children were in place with maternal relatives. *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). The record evidence showed that the children adjusted satisfactorily and were receiving services. The goal relative to the mother was reunification and progress toward that goal was noted by the court. The court properly determined that the relative placement did not overcome the strong evidence that termination of paternal rights was in the best interest of each child. For these reasons, the trial court did not clearly err in its finding that termination was in the best interest of each child.

We affirm.

/s/ Donald S. Owens
/s/ Elizabeth L. Gleicher
/s/ Cynthia Diane Stephens