

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JENNIFER JAYME-VERA,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RAYMUNDO JAYME ANTONIO,

Respondent-Appellant,

and

JUANA VERA,

Respondent.

UNPUBLISHED

July 25, 2006

No. 267709

Kent Circuit Court

Family Division

LC No. 03-055033-NA

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

PER CURIAM.

Respondent-appellant appeals as of right from the trial court's order terminating his parental rights to the child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

This child was removed from her parents' home shortly after her birth because of her mother's history of severe abuse and neglect of her older children, to whom her parental rights were terminated. Respondent-appellant was not the father of the mother's older children and was not involved in her prior case, but petitioner was also concerned about the child's well-being if placed with him because of his relationship with the mother. The court assumed jurisdiction over the child based on the parents' admissions to the petition's allegations concerning the mother's prior terminations and her failure to rectify her parenting deficiencies by not engaging in services and the mother's statement that respondent-appellant had been abusive towards her.

A treatment plan was then created for both parents, which required them to maintain emotional stability, participate in counseling, attend parenting classes and maintain suitable housing and financial stability. In addition, respondent-appellant was required to participate in domestic violence and anger management classes. During the supervised visits with the child, caseworkers observed that respondent-appellant was very appropriate with the child, very

bonded to her, very nurturing, affectionate and loving towards the child, and was doing well with parenting. The parents made substantial progress, and the child was returned to their home on July 5, 2005. The parents were the child's only caretakers, and the child appeared bonded to and comfortable with respondent-appellant. On September 27, 2005, respondent-appellant returned home from work in the morning and observed a bruise on the upper part of the child's face. Respondent-appellant did not know "how it happened" and thought that the child probably hit herself in the cradle. He felt it was not necessary to seek immediate medical attention or to report the bruise to the caseworker and returned to work. Later, a family reunification worker visited the home and noticed a "golf ball sized" bruise on the child's cheek and notified Children's Protective Services, who immediately conducted an investigation. During the investigation, the parents indicated that they were not sure what had happened and provided a variety of possible explanations for the child's bruising, including that the child might have slept on her hand during a nap, hit herself in the face with a book or a spoon, jumped in the crib or fallen in the bathroom. A subsequent CT scan, bone survey, and MRI of the child revealed two skull fractures, two subdural hemorrhages with differing ages, and a fractured elbow that was seven to ten days old. Both the pediatric radiologist and a reviewing doctor believed the child's injuries were caused by abuse, considering the type and extent of the injuries, the differing ages of the subdural hemorrhages, and the lack of any plausible explanation for the injuries. Significantly, the pediatric radiologist indicated that it requires "significant force" to cause skull fractures and subdural hemorrhages and was a characteristic of child abuse.

Immediately after discovering the child's injuries and lack of explanation thereof, petitioner filed a petition requesting the court to terminate the parents' parental rights to the child at the initial dispositional hearing. The child was then removed from the parents' home and placed in foster care again. Thereafter, the mother voluntarily released her parental rights to the child. Respondent-appellant did not know what caused the child's injuries, denied that he caused the child's injuries, never indicated that the child had been left in the care of another adult in the month prior and never gave any plausible explanation for her injuries. Respondent-appellant also denied that the mother caused the child's injuries and did not believe that she was more prone to abuse another child as a result of her past history of abusing her older children because he trusted her and "never noticed that [the mother] could injure the [child.]" At the time of the termination trial, respondent-appellant was no longer living with the mother, continued to be engaged in domestic violence counseling, and remained able to physically provide for the child.

On appeal, respondent-appellant's sole contention is that the trial court clearly erred by finding that the evidence failed to show that termination of his parental rights was clearly not in the child's best interests. We disagree. "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court's determination regarding the child's best interests for clear error. *In re Trejo*, *supra* at 356-357.

On this record, we cannot say that the trial court clearly erred in determining that the evidence failed to show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. The evidence of a strong bond between respondent-appellant and the child, his apparent appropriate parenting, and his ability to physically support the child, did not "clearly overwhelm," *In re Trejo*, *supra* at 364, the compelling evidence indicating that the child

would be unsafe in his home. Respondent-appellant failed to protect the child from severe abuse by not reporting any injury or seeking medical attention for the injuries, by denying that the mother caused the injuries even though she was the only other caretaker of the child, and by not suspecting that the mother was prone to such abuse despite his awareness of the prior terminations of her parental rights due to severe abuse and neglect. Although respondent-appellant contends on appeal that he could not have known of the child's injuries because they were not apparent, he did admit that he observed bruising on the child's face and, instead of seeking immediate medical attention or notifying a caseworker, he returned to work leaving the child in the care of the mother. Moreover, by the time of the termination trial, the child, then two years old, had been in and out of foster care her entire life. Delaying the child's stability and permanency any longer by allowing respondent-appellant additional time to work towards reunification would be unreasonable, especially given the uncertainty about how she sustained the injuries while in his care. The trial court did not clearly err in terminating respondent-appellant's parental rights. *In re Trejo, supra* at 354; MCL 712A.19b(5).¹

Affirmed.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra

¹ Respondent-appellant also contends on appeal that the evidence of the mother's prior terminations due to her abusive parenting and the child's display of fear of her suggested that the mother abused the child. Although that evidence may be indicative of abuse by the mother, we find the testimony indicating that respondent-appellant denied that the mother abused the child or did not suspect that she abused the child, despite the lack of any plausible explanation for her injuries, further suggests a failure to protect the child on his part.