

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEVIN E. KOSINSKI and
RICHARD KOSINSKI, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

CHRISTOPHER KOSINSKI,

Respondent-Appellant,

and

WENDY KOSINSKI,

Respondent.

UNPUBLISHED
January 14, 2010

No. 291879
Gogebic Circuit Court
Family Division
LC No. 06-000083-NA

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Before: Markey, P.J., and Bandstra and Murray, JJ.

PER CURIAM.

In these consolidated appeals, respondents Christopher and Wendy Kosinski appeal as of right the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

This family's history with preventive and protective services dates back to the day that the oldest child, Kevin, was born. Both parents have disabilities that prompted the initial referrals. Wendy is developmentally disabled. She has difficulty reading, writing, and telling time. Because she is unable to handle her own finances, she requires the services of a third-party payee to manage her SSI benefits. Christopher, while not cognitively impaired, lost his hearing at the age of seven following a childhood illness; he communicates through sign language, lip reading, and note writing.

The children were both born in Lansing, Michigan. At the time of Kevin's birth, in 2001, a referral was made because of concerns regarding Wendy's ability to care for the infant. Wendy did not understand a newborn's most basic needs, including feeding and diaper changing. Prevention services were initiated with the placement of Families First in the home. Between 2004 and August 2006, after their move to the Upper Peninsula, the family received preventive services through Gogebic County. The family was assisted by Community Mental Health (CMH), Early Head Start, Even Start, MSU Extension Services, Early On, speech and physical therapists, and the Department of Human Services (DHS).

The case transitioned to protective services in August 2006, after Christopher attempted to run the children and Wendy over with his truck. Christopher testified that demons in his head compelled his actions. As a result of this incident, which Wendy consistently referred to as an "accident," Christopher was arrested and incarcerated for nine months. During this time, Wendy continued receiving services and, with this assistance, she attempted as a single parent to care for the children.

In June 2007, Christopher was released from jail. Because he and Wendy decided that it would be appropriate for Christopher to return to the family home, the children were removed from their care. For the next 18 months, the family would be provided a multitude of services, many of them a continuation of the preventive services, in an effort to foster reunification. When it became apparent that respondents had made no progress with their parenting skills, and that they had not benefited from the services offered, a petition seeking termination of their parental rights was filed.

On appeal, respondents contend that the trial court clearly erred in finding sufficient evidence to terminate their parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). We disagree and find that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). Despite respondents being offered intensive services over a five-year period, there was little to no improvement in their parenting skills. Indeed, even at the time of the termination hearing, respondents had not reached a level of proficiency that would warrant unsupervised parenting time for even a few hours. None of the foster care workers were comfortable with leaving the children in respondents' care

unmonitored, and a parent aide still coached respondents during their parenting time. Wendy's CMH case manager testified that Wendy could care for her children if she had the case manager's assistance and prevention services through DHS. However, agency employees made it clear that DHS services, such as a parent aide, could not be provided indefinitely. At the time of the termination hearing, respondents could not care for their children and would be unable to do so within a reasonable time. Consequently, termination of their parental rights was appropriate pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

Respondents contend that, because they complied with the treatment plan, the trial court erred when it found statutory grounds for termination of their parental rights. While it is true that respondents were cooperative and did comply with the elements of their service plan, compliance alone is insufficient. A parent must benefit from the services offered. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). Several service providers testified that respondents simply did not retain the information and skills they had been taught and re-taught. The record does not suggest that petitioner failed to make reasonable efforts to adjust the service plan to better accommodate respondents' limitations.

We also find no clear error in the trial court's ruling regarding the children's best interests. MCL 712A.19b(5). *Trejo*, 462 Mich at 356-357. Before terminating parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich at 632-633. Additionally, the trial court must make an affirmative finding that termination of parental rights is in the child's best interests. MCL 712A.19b(5). If a statutory ground for termination is established and termination of parental rights is in the child's best interests, the court must terminate parental rights. *Id.*

In this case, the evidence overwhelmingly supported the trial court's conclusion that termination of respondents' parental rights was in the children's best interests. Although respondents loved their children, they simply did not possess the skills necessary to care for them and address their basic needs. With respondents' severe parenting deficits, a product of both developmental disabilities and lack of motivation, the children would be put at risk of harm in their care.

Further, the trial court did not unfairly compare the foster parents' parenting skills to respondents' parenting skills as prohibited by *In re JK*, 468 Mich 202, 214-215 n 21; 661 NW2d 216 (2003). Instead, the court was simply illustrating that the children needed appropriate structure and stability in order to thrive and overcome the delays they had experienced in their earliest years. The children are still very young. They need the stability and security of a stable environment in order to foster continued growth and development. Consequently, the trial court did not err when it concluded that termination of respondents' parental rights was in the children's best interests.

We affirm.

/s/ Jane E. Markey
/s/ Richard A. Bandstra
/s/ Christopher M. Murray