

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICOLE PAYNE and BRIANNA
PAYNE, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JANIE PAYNE,

Respondent-Appellant.

UNPUBLISHED

March 3, 1998

No. 204771

Jackson Juvenile Court

LC No. 96-018850-NA

Before: Michael J. Kelly, P.J., and Fitzgerald and M.G. Harrison*, JJ.

PER CURIAM.

Respondent appeals as of right from the juvenile court order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i) and (g); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i) and (g). We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E).

The statutory grounds for terminating respondent's parental rights were proven by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hamlet (After Remand)*, 225 Mich App 505, 515; ___ NW2d ___ (1997).

Next, the juvenile court did not improperly shift onto respondent the burden of proving that termination was not in the children's best interest. On the question whether termination was in the children's best interest, the court found that "it ha[d] not been shown that termination of the parent's rights is not in the child's [sic] best interest." In so stating, the juvenile court did not shift the burden of proof, but rather recognized the mandatory nature of its decision. That is, once the court found statutory grounds for termination, it had to terminate respondent's parental rights under MCL 712A.19b(5); MSA 27.3178(598.19b)(5) because respondent did not present any evidence from

* Circuit judge, sitting on the Court of Appeals by assignment.

which the court could conclude that termination was clearly not in the children's best interest. *Hamlet, supra* at 8; *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Accordingly, the juvenile court did not clearly err in terminating respondent's parental rights.

Affirmed.

/s/ Michael J. Kelly

/s/ E. Thomas Fitzgerald

/s/ Michael G. Harrison