

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTOPHER BRADNER and
AIMEE BRADNER, Minors

FAMILY INDEPENDENCE AGENCY, f/k/a
DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

MELISSA BRADNER,

Respondent-Appellant,

and

WILLIAM KOHN and KEVIN KELLER,

Respondents.

FAMILY INDEPENDENCE AGENCY, f/k/a
DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

WILLIAM KOHN,

Respondent-Appellant,

and

MELISSA BRADNER and KEVIN KELLER,

UNPUBLISHED
March 10, 1998

No. 199423
Jackson Juvenile Court
LC No. 95-018474-NA

No. 199454
Jackson Juvenile Court
LC No. 95-018474-NA

Respondents.

Before: Jansen, P.J., and Doctoroff and Gage, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from a November 5, 1996, juvenile court order terminating the parental rights of respondent-mother Bradner to Christopher (date of birth 12/22/90) and Aimee (date of birth 7/30/93), and respondent-father Kohn to Christopher¹ pursuant to MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.

On appeal from termination of parental rights proceedings, this Court reviews the probate court's decision in its entirety for clear error. *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997). A finding is clearly erroneous if, although there is evidence to support it, this Court, on the entire evidence, is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller, supra*.

Testimony at the hearing showed that respondent Bradner did not find suitable housing and entered into unhealthy and abusive relationships. She also presented with a history of mental illness that was not fully under control. She had obtained a variety of prescription medications, and at one point she was taking eleven different medications prescribed by eight different doctors and filled at five different pharmacies. Bradner's therapist, Kathy Schafer, MSW, testified that she was unable to give an opinion regarding Bradner's ability to safely parent her children.

We find that the trial court did not clearly err in terminating Bradner's parental rights to the two children. There was ample evidence that Bradner was not properly caring for the children, mainly due to her history of mental illness, and that she did not have her mental illness under control such that she could properly care for the children. Therefore, the trial court's findings that the conditions leading to the adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the ages of the children, and that the parent, without regard to intent, failed to provide proper care and custody for the children and there was no reasonable likelihood that the parent would be able to provide proper care and custody within a reasonable time are not clearly erroneous.

With respect to respondent Kohn, he had been incarcerated at the time that the initial petition was filed, and later returned to live with Bradner. Christopher reported that Kohn regularly smoked marijuana in the home with other members of the household, and described sexually explicit movies that he had been allowed to watch. This apparently led to inappropriate acting out sexually, although there was additional evidence that Christopher had been sexually abused by Bradner's brother. Kohn, who was on parole, tested positively for marijuana at his random drug screens conducted by the parole agent. Kohn claimed that he used the marijuana to relieve headache pain and because he was

depressed because of the children. Kohn had been referred to outpatient treatment, which he had not completed.

We find that the trial court did not clearly err in terminating Kohn's parental rights to Christopher. There was ample evidence that Kohn was not properly caring for Christopher. Once again, the trial court's findings that the conditions leading to the adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the ages of the children, and that the parent, without regard to intent, failed to provide proper care and custody for the children and there was no reasonable likelihood that the parent would be able to provide proper care and custody within a reasonable time are not clearly erroneous.

With regard to the best interests of the children question, the trial court found that it had "not been clearly shown that termination of the parent's rights is not in the children's best interests." Because the parents did not put forth some evidence that termination was clearly not in the children's best interests, the trial court properly terminated respondents' parental rights once it found that a statutory ground for termination had been met by clear and convincing evidence. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith, supra*, p 473.

Affirmed.

/s/ Kathleen Jansen
/s/ Martin M. Doctoroff

I concur in result only.

/s/ Hilda R. Gage

¹ Kohn is Christopher's father, and Kevin Keller is Aimee's father. Keller is not appealing the termination of his parental rights as to Aimee.