

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KESHAWN SMITH, Minor

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

Petitioner-Appellee,

v

TONETTA DELRAY SMITH,

Respondent-Appellant,

and

KEITH MCBRIDE,

Respondent.

In the Matter of BRANDY T. SMITH-WILLIAMS,
Minor

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

Petitioner-Appellee,

v

TONETTA DELRAY SMITH,

Respondent-Appellant,

UNPUBLISHED

March 20, 1998

No. 194884

Wayne Juvenile Court

LC No. 94-315264

No. 201179

Wayne Juvenile Court

LC No. 94-315264

and

ROYNELL RAMON WILLIAMS,

Respondent.

In the Matter of BRANDY T. SMITH- WILLIAMS,
Minor

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

Petitioner- Appellee,

v

No. 201549
Wayne Juvenile Court
LC No. 94-315264

ROYNELL WILLIAMS,

Respondent- Appellant,

and

TONETTA DELRAY SMITH,

Respondent.

Before: McDonald, P.J., and O'Connell and Smolenski, JJ.

PER CURIAM.

In No. 194884, respondent Smith appeals as of right from the juvenile court order terminating her parental rights to KeShawn Smith under MCL 712A.19b(3)(c)(i) and (ii), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i) and (ii), (g) and (j). We affirm.

In No. 201179, respondent Smith appeals as of right from the juvenile court order terminating her parental rights to Brandy T. Smith-Williams under MCL 712A.19b(3)(c)(i), (g) and (i); MSA 27.3178(598.19b)(3)(c)(i), (g) and (i). We affirm.

In No. 201549, respondent Williams appeals as of right from the juvenile court order terminating his parental rights to Brandy T. Smith-Williams under MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). We remand for further proceedings consistent with this opinion.

In No. 194884, the juvenile court did not clearly err in finding that the statutory grounds for termination under subsection (3)(c)(i), (g) and (j) were established by clear and convincing evidence. However, the court clearly erred in terminating respondent Smith's parental rights to KeShawn under subsection (3)(c)(ii) because there was not clear and convincing evidence that "other conditions" existed that caused KeShawn to come within the jurisdiction of the juvenile court. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). This error was harmless, however, given the existence of the other statutory grounds for termination. Further, respondent Smith failed to show that termination of her parental rights was clearly not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Accordingly, the juvenile court did not clearly err in terminating her parental rights to KeShawn.

In No. 201179, the juvenile court did not err in finding that the statutory grounds for termination under subsection (3)(c)(i) and (j) were established by clear and convincing evidence. MCR 5.974; *In re Miller, supra*, at 337; *In re Hall-Smith, supra*, at 472-473. It is unclear whether respondent Smith's parental rights to Brandy were properly terminated under subsection (3)(g) based on the existing record. Any error was harmless, however, given the existence of the other statutory grounds for termination. Further, respondent Smith failed to show that termination of her parental rights was clearly not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Accordingly, the juvenile court did not clearly err in terminating her parental rights to Brandy.

In No. 201549, it is unclear whether respondent Williams' parental rights to Brandy were properly terminated under subsection (3)(g) based upon the existing record. Accordingly, we remand pursuant to MCR 7.216(A)(5) to allow additional testimony regarding how frequently Brandy was improperly cared for during home visits with respondent.

The juvenile court orders terminating respondent Smith's parental rights to the children are affirmed. In No. 201549, we remand for additional proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Gary R. McDonald
/s/ Peter D. O'Connell
/s/ Michael R. Smolenski