

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOSHUA MICHAEL BAAS, Minor.

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

UNPUBLISHED
May 8, 1998

Petitioner-Appellee,

v

No. 203940
Oakland Juvenile Court
LC No. 90-051835 NA

DENISE BAAS,

Respondent-Appellant.

Before: Corrigan, C.J., and Hoekstra and Young, Jr., JJ.

PER CURIAM.

Respondent appeals by right the order terminating her parental rights to her minor child under MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (c)(i), (g) and (j). We affirm.

Respondent argues that the juvenile court clearly erred in terminating her parental rights under MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (c)(i), (g) and (j)¹ because the Family Independence Agency (FIA) did not make reasonable efforts toward family unification. We disagree. This Court reviews the juvenile court's decision to terminate parental rights in its entirety for clear error. *In re Hamlet (After Remand)*, 225 Mich App 505, 515; 571 NW2d 750 (1997). The court's decision is clearly erroneous if we are left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

We reject respondent's contention that the FIA and its contract agency, Ennis Center For Children, Inc., failed to make reasonable efforts toward family reunification. To the contrary, the

record reflects that in addition to regular visitation, the FIA offered respondent parenting classes, counseling, domestic abuse classes, and other services designed to assist respondent in developing the skills necessary to care for her child. Although respondent took advantage of some of these services, she failed to make sufficient progress on the issues that led the court to assume jurisdiction. The juvenile court assumed jurisdiction in this case because respondent physically abused the minor child, who is both physically and mentally impaired. Respondent, however, did not learn to control her violent impulses in the two years the child remained a ward of the court, had yet to accept responsibility for her past actions, and had not made enough progress to warrant unsupervised visitation. Respondent's therapist opined that while respondent had made some progress in her therapy, she needed significantly more counseling before she could assume responsibility for her child. Respondent's lack of progress is further evidenced by the FIA caseworkers' observations that respondent physically and emotionally abused the child during supervised visitation.

We are not left with a definite and firm conviction that the court made a mistake in finding based on this evidence, that (1) a reasonable likelihood existed the child would suffer abuse or harm if returned to respondent's home, and (2) no reasonable likelihood existed that respondent would be able to rectify the conditions that led to the adjudication and provide proper care and custody within a reasonable time. Accordingly, we conclude that the juvenile court did not clearly err in finding grounds for termination under MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (c)(i), (g) and (j).

We likewise conclude that the juvenile court did not clearly err in finding that termination of respondent's rights was in the child's best interest. Under MCL 712A.19b(5); MSA 27.3178(598.19b)(5), the court must terminate a respondent's parental rights after finding that grounds for termination exist unless it determines that termination is clearly not in the child's best interests. *Hamlet, supra* at 522. In this case, although the record contains some evidence of a parent-child bond between respondent and her child, the child would be at serious risk of harm if placed in her care. In this regard, the juvenile court found as follows:

Joshua has very special needs, both medical and emotional, that must be cared for on a highly supervised level. He needs a full time caregiver who can tolerate his limitations and respond properly to disturbances. The testimony presented to this Court is that [respondent] cannot properly react to Joshua's difficulties, and becomes frustrated and physically aggressive when attempting to punish or control him. Hitting, grabbing and throwing are improper methods of disciplining a physically and mentally fragile seven year old child. This has been a repetitive behavior pattern for [respondent] throughout Joshua's life, and does not appear to be changing as he ages.

We agree with the juvenile court that, given the child's special needs, termination was in his best interest.

Affirmed.

/s/ Maura D. Corrigan

/s/ Joel P. Hoekstra

/s/ Robert P. Young, Jr.

¹ The relevant statutory provisions provide that the court may terminate a person's parental rights under the following circumstances:

The child or sibling of the child has suffered physical injury or physical or sexual abuse under . . . the following circumstances:

(i) A parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home. [MCL 712A.19(b)(3)(b); MSA 27.3178(598.19b)(3)(b).]

The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child. [MCL 712A.19(b)(3)(c); MSA 27.3178(598.19b)(3)(c).]

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child. [MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g).]

There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent. [MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j).]