STATE OF MICHIGAN

COURT OF APPEALS

In Re RITA RYNO, a Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARGARET RYNO,

Respondent-Appellant.

UNPUBLISHED
May 15, 1998

No. 201694
Genesee Juvenile Court
LC No. 94-098730 NA

Before: Holbrook, Jr., P.J., and Gribbs and R.J. Danhof*, JJ.

PER CURIAM.

Respondent appeals as of right from an order of the juvenile court terminating her parental rights to the minor child under MCL 712A.19b(3)(b)(ii), (c)(i) and (c)(ii); MSA 27.3178 (598.19b)(3)(b)(ii), (c)(i) and (c)(ii). We affirm.

We conclude that the juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 471-473; 564 NW2d 156 (1997). Rather, we believe that termination was justified under § 19b(3)(b)(ii) because there was clear and convincing evidence that, apart from any abuse inflicted by her deceased husband, respondent also failed to protect the minor child from known physical and sexual abuse by others. Furthermore, while respondent worked on her treatment plan and to some extent participated in the services offered, she failed to demonstrate that she had made significant progress in her ability to properly protect the minor child in the future. Thus, there was no basis to conclude that there exists a reasonable likelihood that respondent would be able to protect the minor child in the foreseeable future from the types of injury and abuse identified in § 19b(3)(b)(ii), even if respondent was provided with intensive individual instruction.

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

Evidence was also presented that respondent lacked the ability to learn how to properly care for the minor child. Accordingly, there was no reasonable expectation that respondent would be able to rectify within a reasonable time considering the child's age either the conditions that led to adjudication, or other conditions that caused the child to come within the court's jurisdiction. Therefore, termination of respondent's parental rights was also appropriate under §§ 19b3(c)(i) and (c)(ii).

Given that the statutory grounds for the termination has been established by clear and convincing evidence, it is the responsibility of respondent "to put forth . . . evidence that termination is clearly not in the child's best interest." *In re Hall-smith, supra* at 473. See also MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Respondent has failed to fulfill this burden. Therefore, we hold that the juvenile court did not clearly err in terminating respondent's parental rights. *In re Hall-Smith, supra* at 472; MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Roman S. Gribbs
/s/ Robert J. Danhof