

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KAYTIE SOURS, SEAN SOURS,
AMANDA SOURS, STEPHEN SOURS, CHANCE
SOURS and SAMMUAL SOURS, Minors.

FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED

Petitioner-Appellee,

v
JAMES EDWARD SOURS and ZELMA
LOUISE DECAIRE,

No. 208203
Hillsdale Juvenile Court
LC No. 96-031419 NA

Respondents-Appellants.

Before: Murphy, P.J., and Gribbs and Gage, JJ.

GRIBBS, J. (dissenting).

I respectfully dissent.

After reviewing the record, I 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 Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). As the trial court noted, the court first became involved in this case because of a “classic” situation involving an alcoholic, abusive father and a submissive mother. Petitioner became involved after respondent-father James Sours was arrested. Sours had attempted to hit respondent-mother Zellma DeCaire, and one of the children was injured when the child tried to intervene.

Sours, an admitted alcoholic, had a record of at least three incidents of violence against respondent-mother Zellma DeCaire along with other unrelated incidents of assaultive behavior and stalking. After DeCaire allowed Sours to move back into the house, a petition was filed seeking removal of the children. However, when authorities went to remove the children, the family had fled.

The children were finally found and removed from the home approximately one year later. When the children were removed, protective services workers asked DeCaire to pack a bag for each child. DeCaire packed inadequate clothing for the weather and age-inappropriate food treats for the children, such as a Tootsie pop sucker for the eight-month old child and hard candy for the two-year old.

After being removed from the home, one of the children reported that Sours was “mean when he drinks beer and meaner when he drinks whiskey” and that she was always afraid of him. The child talked about times when Sours hit DeCaire “with his fists.” The child also recollected one incident in which Sours “picked [her brother] up by his hair.” One of the younger children was diagnosed by a physician as severely malnourished and as a “failure to thrive” child.

Both respondents were ordered to participate in a number of support programs, including substance abuse, parenting, and batterers’/domestic violence groups. Neither parent consistently or successfully participated in any of the required services. DeCaire was ordered to seek employment and housing and to provide proof that she had done so. DeCaire never provided proof of either a job or housing search and, at the time of the termination hearing, had still not found employment despite an extremely favorable local job market.

Meanwhile, after hiding her pregnancy from her relatives and the authorities, DeCaire gave birth to a high-risk, premature baby. Before DeCaire’s release from the hospital, she was provided an apnea monitor for the newborn child, which was to be used at all times, along with medication for the child. After leaving the hospital, DeCaire failed to keep a scheduled doctor’s appointment or accept the services of a home care nurse.

DeCaire did not report the birth of her child to protective services. When protective services workers visited DeCaire’s home, she hid the baby, who suffered from breathing and heart problems, for fifteen minutes under a heavy quilt. The child was not wearing the apnea monitor and had not been given his medication for several days. The child was removed from the home by the protective services workers.

For the next four months, DeCaire did not visit any of the children or contact the authorities. She resurfaced when she was involved in a domestic dispute with her new boyfriend. Just as she had done during her relationship with Sours, she made excuses for the boyfriend’s violent behavior and insisted that the children were not at risk.

Sours was in jail during this time, where he remained at the time of the termination hearing. However, he had done nothing to comply with the court’s orders prior to his imprisonment. He did not visit regularly when he was able to do so and provided no support for the children.

As the trial court stated in making its decision, there is ample evidence here that the children have been victim to long-term neglect and abuse. Both parents made numerous promises to change and were provided support services to aid them. Neither parent cooperated with the court’s orders or showed evidence of a mature commitment to the children. Further, since being removed from the home,

all the children are again healthy and have made educational and social advancements. One of the older children has indicated his wish to be adopted by a foster parent.

The trial did not clearly err in finding that the statutory grounds for termination in this case were established by clear and convincing evidence, and respondents have failed to rebut the mandatory presumption that termination is clearly in the best interests of the children. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hamlet (After Remand)* 225 Mich App 505, 515; 571 NW2d 750 (1998); *In re Hall-Smith, supra* at 471-474.

I would affirm.

/s/ Roman S. Gribbs