

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMIE ROMANO, Minor

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELLE ROMANO,

Respondent-Appellant.

and

WAYNE ROMANO,

Respondent.

UNPUBLISHED

December 11, 1998

No. 207482

Chippewa Juvenile Court

LC No. 97-011828 NA

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WAYNE ROMANO,

Respondent-Appellant

and

MICHELLE ROMANO,

Respondent.

No. 207532

Chippewa Juvenile Court

LC No. 97-011828 NA

Before: Saad, P.J., and Hood and Gribbs, JJ.

PER CURIAM.

In this consolidated action, respondents appeal by right from the juvenile court order terminating their parental rights to the minor child under MCL 712A.19b(3)(i) and (j); MSA 27.3178(598.19b)(3)(i) and (j), and 25 USC 1912. We affirm.

In Docket No. 207482, respondent Michelle Romano raises two issues. First, she argues that the trial court improperly introduced into evidence findings of fact from a prior termination proceeding, and improperly instructed the jury that it must accept the prior findings as true. We disagree. Both the trial court's prior decision and its prior findings were a matter of court record and could be determined by referring to court files. Further, the accuracy of the prior findings is not subject to reasonable dispute. MRE 201(b). Courts regularly take judicial notice of their own records or other courts' records. *In re Thurston*, 226 Mich App 205, 216 n 10; 574 NW2d 374 (1997). The trial court properly instructed the jury in compliance with MRE 201(f). See also MCL 600.2106; MSA 27A.2106; *In re Sumpter Estate*, 166 Mich App 48, 56-57; 419 NW2d 765 (1988). Nor did the properly admitted written findings constitute testimony by the trial judge.

Respondent Michelle Romano also argues that no active efforts were made to provide remedial and rehabilitative services to prevent the breakup of this Indian family or that such efforts were unsuccessful. She contends that there was no evidence that the child was at risk, either physically or emotionally, in her parents' home. There is no merit to this issue.

Under federal law, petitioner must show by evidence beyond a reasonable doubt, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage. 25 USC 1912(f). *In re Elliott*, 218 Mich App 196, 209; 554 NW2d 32 (1996); MCR 5.980(D). In addition, under Michigan law, the juvenile court must find that there is clear and convincing evidence to support termination of rights under one or more of the statutory grounds. *Elliott*, *supra* at 209.

Here, petitioner had already provided extensive services to respondent in the past and she failed to benefit from the services or even acknowledge that she needed to improve her parenting skills. Petitioner had assistance available to respondent Michele Romano while she was pregnant, but on a voluntary basis. Until respondent's fourth child was born, services could only be provided if respondent requested them. Nothing in § 1912(d) of the Indian Child Welfare Act, 25 USA 1901 *et seq.*, precludes petitioner from seeking termination of parental rights at the initial dispositional hearing where, as here, active efforts to reunite the family have proven unsuccessful in the past. Respondent Michelle Romano's involvement in the sexual abuse of her other children, her inability to either seek treatment or see the need for treatment, and her refusal or inability to acknowledge her parenting problems made it clear that further efforts to provide services in this case would have been futile.

In Docket No. 207532, Respondent Wayne Romano argues that termination was improper in this case because his circumstances were different than when his parental rights to another child were terminated six years previously, and that there was insufficient evidence to support a finding that the

child would be seriously harmed if placed in his custody. The court's findings of fact are reviewed for clear error. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The juvenile court did not clearly err in this case.

The evidence of respondent's prior termination of parental rights was properly considered by the juvenile court. Evidence of how a parent treats one child is probative of how that parent will treat another child. *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995). There was ample evidence that the minor child here would be at risk of harm if placed in respondent's custody. Although respondent Wayne Romano eventually gave up his rights to a prior child when he was physically unable to care for her, the child lived for a long time with another family because respondent was not providing for the child's care. And, although the prior child's mother was largely responsible for the situation, respondent took little action for several years prior to the termination.

Moreover, in this case, respondent Wayne Romano refused to believe that respondent-mother posed a risk of harm to the infant child and refused to believe that she had done anything improper with her previous children despite her testimony to the contrary. Finally, although there was some evidence that respondent Wayne Romano's physical condition had improved since the prior termination, there was no evidence that his serious medical condition, which did not permit him to work at a job, would enable him to respond to the demands of a small child.

Next, respondent Wayne Romano contends that, although the court did not say so, the juvenile court improperly terminated his parental rights because respondent did not believe that respondent-mother had previously acted in a sexually inappropriate manner with her other children. Evidence at trial showed that respondent-mother admitted to performing certain sexual acts in front of her previous three children. There was also evidence that respondent-mother may have participated in sex acts involving the children or, at least, that she allowed such acts to occur. It was critical that respondent Wayne Romano recognize possible dangers to the minor child, and the evidence of his lack of insight into problems with both respondent-mother and his former partner was relevant to the trial court's determination here.

Respondent Wayne Romano also argues that it was improper for the juvenile court to admit into evidence its findings from the prior termination proceedings in which respondent's parental rights to a prior child were terminated. As noted previously, the findings in the prior termination proceedings were properly admitted. Contrary to respondent's contention, the findings were relevant to the consideration of his parenting skills despite the differences between this case and the prior termination proceeding. We do not agree that respondent Wayne Romano was prejudiced by admission of findings regarding respondent-mother during the determination whether the juvenile court would take jurisdiction over the minor child. The pertinent circumstances concerning both parents were relevant to the decision in this matter.

Finally, respondent Wayne Romano argues that the juvenile court erred by not requiring that petitioner adopt a case service plan in this case. As was the case with respondent-mother, respondent Wayne Romano was offered numerous services in the past and did not benefit from those services. He could also have had the benefit of voluntary services in this case, but he did not see any need for

assistance. Respondent Wayne Romano incorrectly believed that he no

longer had any parenting problems and refused to believe that respondent-mother was a risk to the child. Petitioner showed that providing further services to this family would have been futile and would have only delayed these proceedings, to the detriment of the child.

Affirmed.

/s/ Henry William Saad

/s/ Harold Hood

/s/ Roman S. Gibbs