

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NICOLE BYERLEIN and AMANDA
BYERLEIN, Minors.

FAMILY INDEPENDENCE AGENCY

Petitioner-Appellee,

v

JAMIE BYERLEIN,

Respondent-Appellant,

and

RITA INGERSOLL,

Respondent.

In the Matter of NICOLE BYERLEIN, AMANDA
BYERLEIN, CASEY FALOR, and JUSTIN FALOR,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RITA INGERSOLL,

Respondent-Appellant,

UNPUBLISHED

January 15, 1999

No. 209548

Wexford Juvenile Court

LC No. 96-001575 NA

No. 209614

Wexford Juvenile Court

LC No. 96-001575 NA

and

JAMIE BYERLEIN and JAMIE FALOR,

Respondents.

Before: Cavanagh,P.J., and Markman and Smolenski, JJ.

MEMORANDUM.

In docket number 209548 of this consolidated appeal, respondent Jamie Byerlein (Byerlein) appeals as of right from a juvenile court order terminating his parental rights to Nicole and Amanda Byerlein. In docket number 209614, respondent Rita Ingersol appeals as of right from the same juvenile court order terminating her parental rights to Nicole and Amanda Byerlein, and Casey and Justin Falor. Respondents' parental rights were terminated pursuant to MCL 712A.19b(3)(b)(i), (b)(ii); (c)(i), (c)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), (c)(i), (c)(ii), (g) and (j). We affirm.

Justin and Casey were born within the marriage of Ingersol and Jamie Falor (Falor). Amanda and Nicole were born while Ingersol remained married to Falor but cohabited with Byerlein. Petitioner began working with the family in 1994. This case began in June, 1996, when petitioner filed a petition with the juvenile division of the probate court requesting that Ingersol be ordered to fully cooperate with an investigation and treatment plan designed to assist her in protecting the children. The children were subsequently placed in foster care. In June, 1997, petitioner filed the petition to terminate respondents' parental rights.

Following the termination hearing, the court found (1) that Casey had been sexually abused by Byerlein; (2) that Ingersol had not and would not take reasonable steps to protect the children; (3) that there was no reasonable likelihood that Ingersol would be able to rectify the conditions leading to jurisdiction in a reasonable time considering the age of the children; (4) that Byerlein had failed to involve himself in any program that would lead to reunification with his children; (5) that it would not be possible for Ingersol to become an adequate mother within a reasonable time; (6) that Byerlein would not provide proper care or custody for his children within a reasonable time considering their age; (7) that the children would be at risk of physical injury, sexual abuse and emotional injury if returned to Ingersol, and; (8) that Byerlein's children would be at risk of emotional harm if placed in an environment where Byerlein were present. The court ultimately found that there was no reason to justify refusing to terminate respondents' parental rights.

We now address respondents' contentions. The juvenile court did not err in admitting the challenged hearsay testimony at the termination hearing. MCR 5.972(C)(2); MCR 5.974(E); *In re Snyder*, 223 Mich App 85; 566 NW2d 18 (1997). Also, the juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, because respondents

failed to show that termination of their parental rights was “clearly not” in the children’s best interests, the juvenile court did not err in terminating their parental rights to the children. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Stephen J. Markman

/s/ Michael R. Smolenski