

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JACQUELINE JOLLETTE, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JANICE WARWICK,

Respondent-Appellant,

and

RAY JOLLETTE,

Respondent.

UNPUBLISHED

February 5, 1999

No. 210459

Emmet Family Court

LC No. 88-002102 NA

Before: Gribbs, P.J., and Saad and P.H. Chamberlain*, JJ.

MEMORANDUM.

Respondent-appellant Janice Warwick (hereinafter “respondent”) appeals as of right from an order terminating her parental rights to her daughter, Jacqueline, pursuant to MCL 712A.19b(3)(b)(i), (c)(i), (c)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (c)(i), (c)(ii), (g) and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first claims that her trial attorney was ineffective for failing to call her boyfriend, Ray Litrell, as a witness at the termination hearing. We disagree. The decision whether to call a witness is a matter of trial strategy. *People v Julian*, 171 Mich App 153, 158-159; 429 NW2d 615 (1988); *People v Barnett*, 163 Mich App 331, 338; 414 NW2d 378 (1987). In this case, other testimony already indicated that Litrell and respondent had intended to marry, thereby providing Jacqueline with a step-father in the home. Further, evidence indicated that Litrell was an alcoholic, who had twice been

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

found to have abused or neglected children. Limiting our review to the record, respondent has not established that the failure to call Litrell as a witness deprived her of a substantial defense, or that there is a reasonable probability that the result of the proceeding would have been different had Litrell testified. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995); *People v Hoyt*, 185 Mich App 531, 537-538; 462 NW2d 793 (1990); *Julian*, *supra*.

Next, the juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCL 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470; 564 NW2d 156 (1997). Further, although evidence was presented that Jacqueline loved respondent, several expert witnesses testified that Jacqueline would be at risk for emotional harm and physical neglect if she was returned to respondent's care, and that placing Jacqueline with respondent would not be in her best interests. Because the evidence failed to show that termination of respondent's parental rights was clearly not in Jacqueline's best interests, the court did not err in terminating respondent's parental rights. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, *supra*.

Affirmed.

/s/ Roman S. Gribbs

/s/ Henry William Saad

/s/ Paul H. Chamberlain