

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEITH EMERSON ROBERTS,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELL HARRIS and JOHN J. HARRIS, SR.,

Respondents-Appellants.

In the Matter of JOHN JAY HARRIS, JR., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELL ROBERTS HARRIS,

Respondent-Appellant,

and

JOHN HARRIS, SR.,

Respondent.

Before: Whitbeck, P.J., and Cavanagh and Griffin, JJ.

UNPUBLISHED

February 23, 1999

No. 208290

Gladwin Juvenile Court

LC No. 97-000036 NA

No. 209299

Gladwin Juvenile Court

LC No. 96-000104 NA

PER CURIAM.

In Docket No. 208290, respondents appeal as of right the juvenile court order terminating their parental rights to the minor child, Keith Emerson Roberts, pursuant to MCL 712A.19b(3)(g), (i) and (j); MSA 27.3178(598.19b)(3)(g), (i) and (j). In Docket No. 209299, respondent Michell Harris appeals as of right the juvenile court order terminating her parental rights to the minor child, John Jay Harris, Jr., pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), (g) and (j). We affirm.

Docket No. 208290

In Docket No. 208290, the trial court relied in part on MCL 712A.19b(3)(i); MSA 27.3178(598.19b)(3)(i) (the parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect) as a basis for terminating respondents' parental rights to minor Keith Roberts. Respondents first argue on appeal that the court's reliance on this section of the statute was error requiring reversal, because prior to the trial court's ruling, this Court reversed the termination decision relating to the sibling, minor John Harris, Jr., and remanded the case to the trial court for a dispositional hearing.

Only one statutory ground is required for termination. In terminating respondents' parental rights to minor Keith Roberts, the trial court also relied on MCL 712A.19b(3)(g) and (j); MSA 27.3178(598.19b)(3)(g) and (j). Once the trial court finds at least one statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds that there has been a showing by the respondent that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Thus, any error in this regard is harmless.

Respondents next argue that the trial court clearly erred in finding that the statutory grounds for termination under §§ 19b(3)(g) and (j) were established by clear and convincing evidence. We disagree.

In an appeal from an order terminating parental rights, the trial court's findings of fact are reviewed for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Vasquez*, 199 Mich App 44, 51; 501 NW2d 231 (1993). A finding of fact is clearly erroneous if, although there is evidence to support it, the reviewing court is left with the definite and firm conviction that a mistake has been made. *Id.* Consistent with this standard, deference must be accorded to the trial court's assessment of the credibility of the witnesses before it. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991). Once the trial court finds at least one statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds that there has been a showing by the respondent that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, *supra* at 472-473.

Witnesses who observed respondents' visits with the child testified that respondent Michell became easily frustrated when the child cried or was fussy, that she did not understand his cues and was distracted, that she had limited capabilities, and that she had unrealistic expectations of the child's development. These witnesses further testified that respondent John interacted well with the child during visits, but did not initiate physical contact with the child.

In terminating respondents' parental rights to minor Keith Roberts, the court found that Michell would be unable to properly parent the child until she resolved her personal issues related to the traumas she suffered as a child. Although services were provided to her, Michell failed to comply with many aspects of the case service plan. The court was also concerned with the instances of domestic violence in Michell's relationships with men, noting that an environment of domestic violence would be an unfit environment for a child. Michell's psychological evaluations indicated that she had many personality traits that needed to be resolved before she could parent the child. Psychological evaluations and testimony likewise indicated that John did not have the capacity to parent. One examiner felt that respondents would require daily monitoring, mentoring, support, and supervision if they were to be given custody of the child. The court, in its findings, recognized that such extensive services could not be provided by any agency. Based on observations by witnesses of respondents' visits with the child and their failure to make progress with the mental health specialist, make progress in two parenting classes, and obtain suitable housing, jobs or an education, the court concluded that respondents failed to provide proper care and custody for their child and there was no reasonable expectation that they would be able to provide proper care and custody within a reasonable time considering the child's age.

Respondents failed to show that termination of their parental rights was clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Thus, the trial court did not err in terminating respondents' parental rights to the child. *In re Hall-Smith, supra*.

Docket No. 209299

Respondent Michell Harris maintains that the trial court clearly erred in finding no reasonable expectation that she would be able to provide proper care and custody of minor John Jay Harris, Jr., within a reasonable time and that termination of her parental rights was not in the child's best interests. We disagree.

Respondents and the child lived in a small camper trailer which had no running water and was extremely warm. The child was dressed inappropriately for the weather conditions. It was observed by the testifying witnesses that Michell handled the child roughly and called him derogatory names, did not properly hold and feed the child despite instruction on proper methods tailored to the child's medical condition (cleft palate), and attended parenting classes but did not benefit. The psychological evaluations admitted at the hearing indicated that Michell had borderline intellectual functioning and a wide range of psychological problems.

In terminating Michell's parental rights to minor John Harris, Jr., the court found that the child was neglected by respondent. The court noted that the child had special needs and would be a challenge for any parent, but was even more so for parents who were challenged themselves by

intellectual and psychological factors. The evidence of record indicated that Michell consistently fed the child in an improper manner and allowed herself to sleep through feedings, showed no understanding that the child needed frequent and patient feeding, and lacked the psychological and intellectual ability to parent the child. The court noted that the child lost weight and was on the verge of a serious medical catastrophe and could have died as a result of respondents' neglect, and that under appropriate and consistent feeding the child regained weight at almost an ounce a day. The court agreed with the witnesses' determination that the child showed symptoms of failure to thrive. The child lost more weight than would have been expected while he was under respondent's care, even though Michell was informed about how the child needed to be handled. The child quickly gained back his health when he received the necessary care and treatment in the hospital. Respondent was unwilling to take advantage of support from human service agencies, became less involved in therapy and appeared to be failing her school program. With no support in place acceptable to respondent, the court found that there was little likelihood that she would acquire those skills within the next six months, the time limit set by the independent psychologist for giving the child stability. On this basis, the court concluded that termination of respondent's parental rights was justified.

We conclude that clear and convincing evidence was presented to support the termination of Michell's parental rights to minor John Jay Harris, Jr. Michell presented no evidence to show that the termination of her parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith, supra*. Thus, the trial court did not err in terminating respondents' parental right to the child. *Id.*

Affirmed.

/s/ William C. Whitbeck

/s/ Mark J. Cavanagh

/s/ Richard Allen Griffin