

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEBORAH SUE DECKER, JOHN
ROY DECKER, and THOMAS HENRY DECKER,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DOUGLAS LEE DECKER and DEBORAH SUE
DECKER,

Respondents-Appellants.

UNPUBLISHED

July 13, 1999

Nos. 212806;213947

Wayne Circuit Court

Family Division

LC No. 94-315631

Before: Zahra, P.J., and Saad and Collins, JJ.

PER CURIAM.

In these consolidated cases, respondents appeal as of right from the family court order terminating their parental rights to the minor children Deborah (DOB: 7/5/89), John (DOB: 5/26/90), and Thomas (DOB: 7/26/92). The minor children became temporary wards of the court on April 26, 1994, when respondent father admitted to placing the children with an inappropriate caretaker, and respondent mother admitted that she had a history of mental illness which affected her ability to parent the children. The children remained in the custody of the court until the instant petition to terminate parental rights was filed on September 19, 1997.

Following the hearing on the petition to terminate parental rights, the trial court found that there was clear and convincing evidence to terminate respondent father's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), and (j), and respondent mother's parental rights pursuant to MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). We affirm.

MCL 712A.19b(3); MSA 27.3178(598.19b)(3) provides in pertinent part:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Our review of the trial court record reveals that termination was warranted as to respondent father under § 19b(3)(c)(i), §19b(3)(g) and §19b(3)(j). Almost four years has lapsed since the first dispositional order was entered. While respondent father did appear to take control of his forty year battle with alcohol abuse and took steps to comply with the requirements of the treatment plan, he has failed to recognize that the children have severe behavioral problems that require constant attention. By way of example and not limitation, although several specialized foster parents could not control the children individually, even when they were on medication, respondent was certain that he could successfully care for the children without resort to medication. In view of this evidence, the trial court did not clearly err in finding that the conditions that lead to the adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i).

The evidence also shows that the children needed intensive supervision and stability in order to prevent them from hurting themselves or others. The evidence clearly establishes that respondent father is incapable of providing proper care and supervision of these children. As previously stated, respondent father does not believe that the medication necessary to assist the children's emotional health is required or beneficial to them. The psychologists and case workers who worked with this family uniformly indicated that respondent father could not control or provide these children with any structure. In short, the trial court did not clearly err in finding that respondent father failed to provide proper care or custody of the children, and that there was no reasonable probability that he would be able to provide proper care and custody within a reasonable time considering the age of the children. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g).

We also note that the safety of these children while in respondent's care was a major concern throughout these proceedings. Respondent father left the children with inappropriate caregivers, allowed at least one child to have contact with a guard dog, failed to seek medical treatment when the result was a dog bite by a pit bull, left an open deer-gutting knife within reach of at least one child, allowed his drapes to catch fire by leaving a candle unattended, and felt justified in punishing the children with a belt. Based on this conduct, the trial court did not clearly err in finding there was a reasonable likelihood that the children would be harmed if they were returned to respondent father. MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j).

Finally, respondent father made no showing that termination of his parental rights was clearly not in the best interests of the children. *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Because there was clear and convincing evidence to support the statutory grounds for termination, the court did not clearly err in terminating respondent father's parental rights.

Respondent mother does not contest that statutory grounds existed to terminate her parental rights. Rather, she argues that she has turned her life around and therefore, it would not be in the best interests of Deborah, the only female child of respondents, to have her mother's parental rights terminated. We disagree.

Respondent mother stopped attending weekly visits with the children and failed to report to the case workers for approximately two years. Respondent mother reappeared when the instant proceedings were initiated to terminate parental rights. Since the minor children have been temporary wards of the court, respondent mother has given birth to two additional children, one of which was born addicted to cocaine. Respondent mother admits that she had a drug addiction for approximately ten months, but she asserts that she had overcome the addiction and that she was drug-free as of the dispositional hearing. Respondent mother's other two children were temporary wards of the court in St. Clair County, but were about to be placed in the custody of respondent mother. Deborah's case worker and the case worker from St. Clair County could not recommend that Deborah be placed with respondent mother. Deborah requires around-the-clock supervision to assure that she does not harm herself or others. Her extreme behavior problems require structure, which respondent mother is incapable of providing. Under these circumstances, we find that respondent mother has not demonstrated that termination of her parental rights was clearly not in Deborah's best interest.

In sum, we find that the trial court did not clearly err in finding that § 19b(3)(g) was established by clear and convincing evidence with respect to respondent mother, nor did the court clearly err in finding that §§ 19b(3)(c)(i), (g) and (j) were established by clear and convincing evidence with respect to respondent father. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). We further find that both respondents failed to show that termination of their parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA

27.3178(598.19b)(5); *In re Hall-Smith, supra*, at 473. Thus, the family court did not err in terminating respondents' parental rights to the minor children. *Id.*

Affirmed.

/s/ Brian K. Zahra

/s/ Henry William Saad

/s/ Jeffrey G. Collins