

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTOPHER GRABE,
GABRIELLE GRABE, AUDRIANNA RIEDINGER
and STEPHANIE RIEDINGER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BRENDA GRABE and MARCUS RIEDINGER,
a/k/a TONY RIEDINGER,

Respondents-Appellants,

and

JAMES GARY and VERN NORTH,

Respondents.

UNPUBLISHED

July 30, 1999

No. 215850

Kent Circuit Court

Family Division

LC No. 96-000537 NA

Before: McDonald, P.J., and Kelly and Cavanagh, JJ.

PER CURIAM.

Respondent Brenda Grabe appeals as of right from the family court order terminating her parental rights to the minor children Christopher Grabe, Gabrielle Grabe, Audrianna Riedinger, and Stephanie Riedinger pursuant to MCL 712A.19b(3)(b)(ii) [failure to protect children from physical or sexual abuse], (c)(i) [conditions that led to adjudication continue to exist and are not likely to be rectified within a reasonable time], and (g) [parent, without regard to intent, fails to provide proper care or custody for the children]; MSA 27.3178(598.19b)(3)(b)(ii), (c)(i), and (g). Respondent Marcus Riedinger appeals as of right from the family court order terminating his parental rights to Audrianna Riedinger and Stephanie Riedinger pursuant to MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (i); MSA 27.3178(598.19b)(3)(b)(ii), (c)(i), (g), and (i) [parental rights to one or more siblings have been

terminated due to neglect or abuse and prior attempts at rehabilitation have been unsuccessful].¹ We affirm.

On appeal, respondents argue that the family court erred in terminating their parental rights. A two-prong test applies to a family court's decision to terminate parental rights. First, the family court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b; MSA 27.3178(598.19b) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). This Court reviews the findings of fact under the clearly erroneous standard. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding of fact is clearly erroneous where the reviewing court is left with a definite and firm conviction that a mistake has been made. *Jackson, supra* at 25.

Once a statutory ground for termination has been met by clear and convincing evidence, the parent against whom termination proceedings have been brought has the burden of going forward with some evidence that termination is clearly not in the child's best interest. If no such showing is made and a statutory ground for termination has been established, the trial court is without discretion; it must terminate parental rights. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Huisman*, 230 Mich App 372, 384; 584 NW2d 349 (1998).

We conclude that the family court did not err in finding that MCL 712A.19b(3)(b)(ii); MSA 27.3178(598.19b)(3)(b)(ii) was established by clear and convincing evidence. Respondents clearly failed to protect the three girls from sexual abuse. Respondents continued to associate with Raymond Eckert in the weeks preceding the termination hearing, despite allegations that he had molested one of the girls. While respondents complied with the parent-agency agreement and had shown some progress, they did not comprehend the effect that the abuse had on the children. Accordingly, there was a reasonable likelihood that the children would again suffer abuse if returned to respondents' home.

Likewise, the family court did not err in finding that MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g) were established by clear and convincing evidence. Respondents clearly love the minor children and worked with Catholic Social Services to become suitable parents. Moreover, respondents had received some benefit from the classes and counseling they had received over the prior year. However, Kim Bergbower testified that respondents would initially apply what they had learned but would then slip back into poor habits during visits. In addition, respondents both minimized their prior problems and lacked the necessary insight into the effect of the sexual abuse on the children. Given testimony that the children need a great deal of attention and a very structured environment, the court did not clearly err in finding that the conditions that led to the adjudication continue to exist and respondents would be unable to provide proper care for the children within a reasonable time.

Finally, with regard to respondent Riedinger, the family court did not clearly err in finding that MCL 712A.19b(3)(i); MSA 27.3178(598.19b)(3)(i) was established by clear and convincing evidence. Respondent Riedinger's parental rights to two other children were voluntarily terminated in 1994. Respondent Riedinger's own testimony establishes that services had been provided to him at that

time, and given that the children at issue in the instant case were neglected and abused, the court did not clearly err in finding that he did not benefit from those services.

The family court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence, and 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); *Huisman, supra*. Accordingly, the family court did not err in terminating respondents' parental rights to the children.

Affirmed.

/s/ Gary R. McDonald

/s/ Michael J. Kelly

/s/ Mark J. Cavanagh

¹ The family court's opinion indicates that respondent father's parental rights were terminated under subsection (3)(f), rather than (3)(i). However, because the court referred to the language set forth in (3)(i), we concluded that respondent Riedinger's rights were terminated pursuant to that subsection.