

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROBERT HEFFELBOWER and
JAMES HEFFELBOWER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RONALD HEFFELBOWER,

Respondent-Appellant,

and

JAMIE HEFFELBOWER,

Respondent.

UNPUBLISHED
February 16, 2001

No. 225364
Washtenaw Circuit Court
Family Division
LC No. 97-024576-NA

Before: Holbrook, Jr., P.J., and McDonald and Saad, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from an order of the circuit court terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.¹

Once a trial court determines that one or more grounds for termination has been established by clear and convincing evidence, the trial court must terminate parental rights unless “there exists clear evidence, on the whole record, that termination is not in the child’s best interests.” *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000).

Respondent-appellant argues that the family court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re*

¹ Respondent Jamie Hefflebower has not appealed the termination of her parental rights.

Miller, 433 Mich 331, 337; 445 NW2d 161 (1989). We disagree. We review the family court's findings under the clearly erroneous standard. *Id.* at 358. "A finding is clearly erroneous where the reviewing court is left with a firm and definite conviction that a mistake has been made." *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993).

Respondent-appellant and Jamie Heffelbower were married in 1988 and separated in 1991. The minor children were living with Jamie Heffelbower at the time they were taken into the court's custody in May 1997. In a plea agreement, respondent-appellant admitted that he was unable to provide care and custody for the children, and that he allowed the children to remain in a home environment he judged to be inappropriate. MCR 5.971. Thus, by his own admission, respondent-appellant had failed to provide proper care and custody for his children.

Further, after reviewing the record, we believe that clear and convincing evidence was adduced below establishing that there is no reasonable expectation that respondent-appellant would be able to provide proper care and custody within a reasonable time, given the children's ages. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). In the years that the children have been in foster care, respondent-appellant failed to secure an adequate home for the children, failed to obtain secure employment, and failed to even address the issue of daycare. His visitation with the children has been irregular. Significantly, he has also displayed a continuing ambivalence about his ability to care for the children. More than once during the approximate two years the boys were in foster care, respondent-appellant admitted that he still was not ready to care for his children. In fact, he testified at the termination hearing that he still was not ready to parent his children on a full-time basis and that he did not know when he would be so able.

We believe this evidence also supports the finding that conditions that led to adjudication continue to exist and there is no reasonable likelihood that they will be rectified within a reasonable time. MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). Respondent-appellant correctly points out that this case began with the discovery that Jamie Heffelbower was abusing the minor children. Respondent-appellant argues that because this situation no longer exists, the trial court erred in finding that subsection 19b(3)(c)(i) was supported by clear and convincing evidence. We disagree. With respect to respondent-appellant, jurisdiction of the court was supported by his failure to provide proper care and custody for the children. By his own admission, respondent was not, and continues not to be capable of providing such care for his children.

Finally, on review of the entire record, we cannot conclude that the trial court's assessment of the children's best interests was clearly erroneous. *In re Trejo*, *supra* at 354. Under the circumstances, we do not believe the court erred in refusing to further delay permanency for the children. *Id.* at 364.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Gary R. McDonald
/s/ Henry William Saad