

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MM, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner -Appellee,

v

VICKIE MISIEWICZ,

Respondent -Appellant.

UNPUBLISHED

March 16, 2001

No. 228512

St. Clair Circuit Court

Family Division

LC No. 98-004507-N

Before: K. F. Kelly, P.J., and Smolenski and Meter, JJ.

PER CURIAM.

Respondent Vickie Misiewicz appeals by right from the family court’s order terminating her parental rights to a minor child under MCL 712A.19b(3)(b)(ii); MSA 27.3178(598.19b)(3)(b)(ii) (“[t]he child or a sibling of the child has suffered physical injury or physical or sexual abuse . . . [and t]he parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent’s home”); MCL 712A.19b(3)(c)(i) and (ii); MSA 27.3178(598.19b)(3)(c)(i) and (ii) (“[t]he 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 . . . [that t]he 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 . . . [or o]ther conditions exist that cause the child to come within the court’s jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child’s age”); MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g) (“[t]he 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”) and MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j) (“[t]here 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").¹

This Court reviews for clear error a family court's finding that a statutory basis for termination has been met. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a statutory basis has been proven by clear and convincing evidence, see MCL 712A.19b(3); MSA 27.3178(598.19b)(3), the court must terminate parental rights unless the court finds that termination is clearly not in the best interests of the child. *Trejo, supra* at 344, 355. A family court's finding on the best interests prong is also reviewed by this Court for clear error. *Id.* at 356-357, 365.

Here, the family court did not clearly err in finding that termination was statutorily warranted and was in the best interests of the child.

Respondent's sole argument on appeal is that there was no clear and convincing evidence justifying the termination of her parental rights. Respondent's argument is without merit. Indeed, the following evidence amply supported the family court's decision: (1) the testimony by the child's former foster parent about the child's extreme behavioral problems, which worsened after visits with respondent; (2) the foster parent's testimony regarding respondent's statements to the child about monsters; (3) the testimony by respondent's therapist that respondent did not understand why the child had to be removed from her home; (4) the therapist's testimony that respondent had not internalized the skills taught during parenting classes and that respondent could not be an effective parent, even with additional agency intervention; (5) the testimony by the child's counselor that respondent had exposed the child to sexual situations; (6) the counselor's testimony that the child had not formed a healthy attachment with respondent; (7) the counselor's testimony about respondent's inappropriate behavior during a supervised visit with the child; (8) the counselor's testimony that respondent would not be able to effectively parent a child in the near future; (9) the testimony by a social services worker that visits with respondent negatively affected the child; (10) the worker's testimony that respondent had made little or no progress in solving her parenting problems and was not bonded with the child; and (11) the worker's testimony that respondent could not meet the child's needs. This evidence clearly and convincingly established that respondent could not provide proper care for the child and would not be able to do so in a reasonable amount of time. Accordingly, the family court did not clearly err in ruling that termination was warranted under MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). Because only one statutory basis need be established to warrant termination, see *Trejo, supra* at 360, the additional statutory grounds cited by the family court need not be addressed.²

¹ The family court also noted MCL 712A.19b(3)(a)(ii); MSA 27.3178(598.19b)(3)(a)(ii) – a desertion provision – as a basis for termination with regard to respondent. This was apparently a clerical error on the part of the court, since the desertion provision applied solely to Matthew's father.

² Although respondent does not explicitly challenge the court's finding regarding the best interests of the child, we nevertheless note that the evidence produced at the termination hearing
(continued...)

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Michael R. Smolenski
/s/ Patrick M. Meter

(...continued)

clearly established that termination was indeed in the best interests of the child.