

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DUSTIN ALLAN WOOD, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT L. WOOD,

Respondent-Appellant.

UNPUBLISHED

March 30, 2001

No. 229863

St. Joseph Circuit Court

Family Division

LC No. 98-322-NA

Before: Gage, P.J., and Cavanagh and Wilder, JJ.

PER CURIAM.

Respondent Robert L. Wood, appeals as of right from a family court order terminating his parental rights to the minor child Dustin Wood¹ pursuant to MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g).² We affirm.

This case first came to the attention of petitioner Family Independence Agency (FIA) in January 1997, after respondent was arrested for domestic violence against Tonia. Respondent was again arrested for domestic violence against Tonia on March 26, 1998. Following this arrest, and a car accident in which Tonia had been drinking, the FIA filed a neglect petition on April 9, 1998, asking the court to take jurisdiction over the minor children, alleging, *inter alia*, that respondent had a history of domestic violence that threatened the emotional well-being of the minor children and that there was a history of alcohol and/or substance abuse with the parents of the minor children that places the children at a substantial risk of harm. The children were initially placed with respondent; however, on November 5, 1998, the court granted the FIA

¹ The original petition also included Dustin's younger sister, Ashli Wood; however, following a judgment of divorce between respondent and the children's mother, Tonia, the court granted the mother custody of Ashli and dismissed her as a ward of the court.

² Tonia's parental rights were also terminated pursuant to MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g); however, that decision is not before us.

request to place them in foster care following an incident where respondent had driven the children, in his truck, without car seats or seat belts.

Upon review of the record, we find that the family court did not clearly err in finding that statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000); *In re Sours*; 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). This Court reviews a trial court's factual findings in an order terminating parental rights for clear error. MCR 5.974(I); *In re Miller, supra* at 337; *In re Vesquez*, 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. *In re Miller, supra*. Deference must be accorded to the trial court's assessment of the credibility of witnesses before it. 2.613(C); *In re Newman*, 189 Mich 61, 65; 472 NW2d 38 (1991). Once the trial court finds a statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds, based on the whole record, that termination is clearly not in the best interests of the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo, supra* at 350; *In re Maynard*, 233 Mich App 438, 450-451; 592 NW2d 751 (1999).

Termination of parental rights is proper where the child's 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. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). Here, the record clearly establishes that the FIA removed Dustin from the care of respondent after he had placed him and his sister in his truck, at 1:30 am, half dressed, and without car seats or seat belts, in order to pick Tonia up from a bar. In addition, there was evidence introduced that respondent, during a fit of anger, bruised Dustin while visiting with him at the FIA office. This event was witnessed by FIA employees. Further, respondent refused to undergo therapy that the FIA insisted on in order to reunite him with Dustin. Specifically, respondent refused to participate in substance abuse counseling, attend additional psychological testing, finish recommended parenting classes, and be available for substance abuse testing for a period of three months. It was also clearly established that respondent had violated his parole, had been arrested during the time in which Dustin was under the care and supervision of the FIA. It was also clearly established that respondent continued to have anger management problems that could cause him to be in another abusive relationship. Accordingly, termination of respondent's parental rights under subsection 19b(3)(g) was proper.³

Moreover, the family court's assessment of the best interests of Dustin was not clearly erroneous. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors, supra*. The record reveals that Dustin had been in foster care for nearly two years and that he was in need of permanency. In addition, it was established that Dustin had been behaving better since being

³ Because the family court properly terminated respondent's parental rights under subsection 19b(3)(g) and only one statutory ground for termination must be established in order to terminate parental rights, we need not decide whether termination was also proper under subsection (3)(c)(i). *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000).

placed in the home of his aunt and uncle, that he was doing much better in school, and that he was afraid of respondent. Based on this record, we are not left with the a definite and firm conviction that the trial court erred when in determined that not terminating respondent's parental rights was in the best interests of the child, *In re Miller, supra*.

Affirmed.

/s/ Hilda R. Gage

/s/ Mark J. Cavanagh

/s/ Kurtis T. Wilder