

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D.L.H. and D.L.A., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TIMIKA ADAMS,

Respondent-Appellant.

UNPUBLISHED

June 26, 2001

No. 228488

Wayne Circuit Court

Family Division

LC No. 98-363527

Before: Smolenski, P.J., and McDonald and Jansen, JJ.

PER CURIAM.

Respondent-appellant Timika Adams appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

In a termination proceeding, the petitioner bears the burden of demonstrating at least one statutory basis for termination, by clear and convincing evidence. MCR 5.974(F)(3); *In re Trejo Minors*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory basis for termination is shown, the trial court shall terminate parental rights unless it finds that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MCR 5.974(F)(3); *Trejo, supra* at 344. This Court reviews for clear error both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the trial court's best interest finding. *Id.* at 356-357; MCR 5.974(I). "A finding is 'clearly erroneous' [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989), quoting *In re Riffe*, 147 Mich App 658, 671; 382 NW2d 842 (1985).

In the present case, the trial court terminated appellant's parental rights under MCL 712A.19b(3)(c)(i), (g) and (j). Appellant first argues that the trial court erroneously terminated her parental rights because she complied with a substantial portion of the treatment plan and because she was attending mental health counseling and taking her prescribed psychiatric medication. She argues that petitioner presented no evidence at trial to support the conclusion that continued mental health therapy would be futile. In essence, she argues that the trial court should have granted her more time to resolve her problems. We disagree.

The record supports the trial court's determination that appellant failed to make progress with mental health issues over the two years that the children spent in the court's custody. Appellant developed a clear pattern of non-compliance with her mental health treatment, including a failure to attend counseling sessions and a failure to take her psychiatric medication. Although she resumed counseling in advance of trial, the evidence supported a finding that appellant was not fully invested in therapy and that she was not making progress with her treatment. Further, the neuropsychological assessment ordered by the lower court revealed serious concerns about appellant's mental health status and her ability to properly care for the children. The record supports the trial court's determination that appellant was unlikely to resolve those mental health issues within a reasonable time, considering the children's ages.

Appellant also argues that the evidence presented at trial did not support the conclusion that the children would be harmed if returned to her care. Appellant relies on her positive visitation record and the testimony that she had established a bond with the children. However, we cannot find clear error in the trial court's reliance on reports from the mental health counselors. Those reports supported a finding that a substantial risk of harm existed if the children were returned to appellant's care, given her mental health status.

Affirmed.

/s/ Michael R. Smolenski

/s/ Gary R. McDonald

/s/ Kathleen Jansen