

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JUSTIN COLE and RYAN COLE,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TAYA PICKELL,

Respondent-Appellant,

and

WILLIAM COLE,

Respondent.

UNPUBLISHED

June 29, 2001

No. 230284

Bay Circuit Court

Family Division

LC No. 88-003102-NA

Before: Hood, P.J., and Whitbeck and Meter, JJ.

PER CURIAM.

Respondent-appellant (“respondent”) appeals by right from the family court’s order terminating her parental rights to two minor children, Justin and Ryan Cole, under MCL 712A.19b(3)(c)(i) (“[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”) and MCL 712A.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”).

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, 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 court's finding on the best interests prong is also reviewed by this Court for clear error. *Id.* at 356-357, 365.

Respondent contends that because she had ceased being romantically involved with a child sexual abuser, because she was properly caring for the children, and because she had a strong bond with the children, the family court clearly erred in concluding that a statutory basis for termination existed and that termination was in the best interests of the children. We disagree. Indeed, the following amply supported the family court's decision in this case: (1) respondent's admission that she married three different men who sexually abused her children; (2) respondent's admission that she knew before marrying one of the men that he had sexually molested his own children; (3) a foster care worker's testimony that respondent failed to ensure that Justin regularly attended counseling for sexual abuse victims; (4) the testimony of a counselor, Helen Drake, that respondent planned to deal with her pattern of becoming romantically involved with child abusers by simply ceasing to have male partners; (5) the testimony of another foster care worker, Marie Dewyse, that respondent nonetheless was seeking a date over the internet; (6) Drake's testimony that respondent had little insight regarding her poor choice of men and that she failed to take responsibility for what was happening with the family; (7) the testimony of a school counselor, Diane Julian, that respondent often failed to send Ryan's medication to school with him; (8) Julian's testimony that Justin went weeks without glasses that had been prescribed for him and that were affordable to respondent; (9) Julian's testimony that respondent often failed to send a change of clothes to school with Justin to help deal with his urinary incontinence problem; (10) Julian's testimony that the boys had had a problem with chronic head lice, that their hygiene was poor, and that they had complained about failing to receive enough food; (11) the testimony of a teacher's aide that Ryan consistently failed to do his homework and that his hygiene was poor; (12) Dewyse's testimony that the boys had had chronic head lice and that the boys' teeth were very yellow; (13) Dewyse's testimony that termination was in the children's best interests because of respondent's inability to offer the children proper guidance; (14) Dewyse's testimony that respondent had a negative attitude toward counseling; (15) the evidence that respondent was discharged from a counseling program for failure to attend; (16) the testimony of the boys' counselor, Pete Gembarowski, that respondent did not call to check on the children's well-being while they were in foster care; and (17) Gembarowski's testimony that termination was warranted because of respondent's inconsistency, resistance to counseling, and lack of stability.

In light of the foregoing evidence, and giving due regard to the trial court's special ability to judge the credibility of the witnesses before it, see MCR 2.613(C) and *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989), we simply cannot say that the trial court *clearly erred* in concluding (1) that respondent, without regard to intent, could not provide proper care for the children and would not be able to do so in a reasonable amount of time (MCL 712A.19b[3][g]),¹

¹ We note that only one statutory basis need be established to warrant termination, see *Trejo*, supra at 360, and that therefore we need not even decide whether the court properly relied on MCL 712A.19b(3)(c)(i) in terminating respondent's parental rights.

and (2) that termination of respondent's parental rights was in the best interests of the children, despite the bonding they felt with respondent.

Affirmed.

/s/ Harold Hood

/s/ William C. Whitbeck

/s/ Patrick M. Meter