STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A.K.T. and C.L.S., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

MARY VIRGINIA TENNEY,

Respondent-Appellant,

and

JUAN LOPEZ,

Respondent.

UNPUBLISHED
January 25, 2002

No. 232818
Wayne Circuit Court
Family Division
LC No. 99-380524

Before: Talbot, P.J., and Smolenski and Wilder, JJ.

MEMORANDUM.

Respondent-appellant Mary Tenney 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 that statutory basis is shown, the trial court shall terminate parental rights unless it finds that doing so is clearly not in the best interests of the children. 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 statutory subsections 19b(3)(c)(i), (g) and (j). Appellant argues that she was "in the process of complying with" the court-ordered treatment plan, and that the trial court should not have terminated her

parental rights "so quickly." We disagree. Approximately eighteen months passed between the filing of the temporary custody petition and the permanent custody trial. During that time, appellant participated in several drug treatment programs. Although she completed some of those programs, she repeatedly returned to illegal drug use. The trial court found that appellant tested positive for drugs in February, March, April, May, and June 2000, and tested positive for cocaine four times in October and November, 2000. Appellant does not contest those factual findings, but simply argues that it is natural for a drug abuser to experience relapses. Under the facts of this case, we cannot say that the trial court clearly erred in finding no reasonable likelihood that appellant would be able to rectify her drug abuse problem or provide proper care for the children within a reasonable time, considering their ages. MCL 712A.19b(3)(c)(i), (g). Furthermore, given appellant's record of relapses into cocaine abuse, we cannot say that the trial court clearly erred in finding a reasonable likelihood that the children would be harmed if returned to her care. MCL 712A.19b(3)(j).

Affirmed.

/s/ Michael J. Talbot
/s/ Michael R. Smolenski
/s/ Kurtis T. Wilder