STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JW and JR, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROSA RUSS and JUNIOUS WILLIAMS,

Respondents-Appellants.

UNPUBLISHED
February 19, 2002

No. 234467
234717
Wayne Circuit Court
Family Division
LC No. 87-260013

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

PER CURIAM.

Respondents Rosa Russ (mother) and Junious Williams (father) appeal as of right from a family court order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), (i), and (j).[1] We affirm.

I. Facts and Proceedings

Petitioner Family Independence Agency (FIA) filed the initial petition alleging that mother abandoned the children with a friend on December 1, 1999 and that mother's drug addiction prevented her from being a responsible parent. The initial petition also sought termination of respondents' parental rights. At the preliminary hearing, mother admitted to having a drug addiction that began in 1981 and that she waited four days to contact the FIA after being informed her children had been taken into protective custody. She also admitted to having her rights terminated to three of her other children.[2]

[1] Subsection 19b(3)(i) applied to mother only.

[2] There is other evidence which suggests mother had her parental rights terminated to four other children.

Father also testified at the preliminary hearing. He testified that at the time mother left the children with the friend, he was living with her and caring for the children. He also testified that while he had a been sober for ten years, he had been addicted to drugs in the past and still attended alcohol/narcotics anonymous classes. Father also testified that he received social security income (SSI) for a mental disability, that he was under the care of a psychiatrist, had been diagnosed with schizophrenic behavior, and that he was taking medication as a result of this diagnosis.

After hearing the testimony of mother and father, the family court authorized the petition and made the children temporary court wards. The original petition had sought permanent custody; however, the family court amended the petition to temporary custody in order to give respondents a chance at getting their children back.

Respondents then entered into a parent-agency agreement with the FIA that required both mother and father to (1) to attend all family visits and demonstrate appropriate parenting skills during those visits, (2) complete parenting classes, (3) maintain legal sources of income, (4) obtain and maintain suitable housing, (5) fully cooperate with the FIA, and (6) attend all court hearings. The parent-agency agreement also required father to sign a medical release form in order to allow full disclosure of his psychiatric reports and required mother to submit to drug and alcohol screens, as well as to participate in a substance abuse program and a 12-step support program.

A dispositional review hearing was held on May 23, 2000. Mother did not appear at the hearing and her whereabouts were unknown. At that hearing it was reported that mother had only visited with the children one time since February 2000 and that she was generally not following the parent-agency agreement. In addition, while father had been complying with aspects of the parent-agency agreement, he still had not provided FIA with the necessary disclosure forms for his psychiatric records. Despite this, the family court provided FIA the discretion to permit father unsupervised visitation with the children.

Another dispositional review hearing was held on August 22, 2000. There, it was reported that mother was still not complying with the parent-agency agreement. Specifically, she still had not participated in drug treatment, submitted to drug screens, and had still only visited her children one time. Thus, visitation between mother and the children was suspended until mother came into full compliance with the parent-agency agreement. Father showed a greater commitment to complying with the parent-agency agreement. In fact, as of August 22, 2000, he had completed parenting classes and provided documentation of income. Nonetheless, he still had failed to provide verification of his medication or that he was being treated by a psychiatrist. His visits remained supervised by FIA. The family court also adopted FIA's recommendation that both parents be evaluated by the Clinic for Child Study and also ordered that father undergo individual counseling. The family court sought this counseling in order to receive a professional opinion regarding whether father's mental illness would hinder his ability to appropriately plan for his children. The family court also took the opportunity to remind the parties that this case was originally brought for permanent placement, but that it was changed to temporary placement in order to allow respondents the opportunity to plan for their children. Because the original concerns warranted FIA to seek termination in the initial petition, the family court informed the parties that efforts to reunite the family should be on a "fast track" and the respondents should be able to comply with the parent-agency agreement in a "short time."

At the November 9, 2000 dispositional hearing, the family court admitted into evidence the Clinic for Child Study evaluation of respondents. In that report, mother admitted to having a drug problem and that she served five years probation on a drug charge. The evaluation indicated that mother's drug problem began with heroin when she was fourteen years old, and that she began taking crack cocaine when she was twenty-one years old. Mother also admitted to leaving the children with an irresponsible caregiver. However, she did express regret for her actions and indicated that she would do whatever was necessary in order for her children to be returned to her. In fact, she referred to her children as her "priority."

With regard to father, the evaluation indicated that he believed mother was responsible for leaving the children with an unreliable caregiver, and that he had no role in that decision. He also informed the clinician that he had previously suffered from auditory hallucinations, but that he tried to ignore them, they had never told him to harm himself or others, and that he had not had any recent hallucinations.

The evaluation included an observation session between respondents and the children. The clinician reported that during that session, father sat on the sofa and that "[t]here was very limited interaction between [father] and the children," but that "the children did not exhibit any outward clinical manifestations of fear or withdrawal while they were in the company of" father. In contrast, mother provided the children with "a great deal of one-to-one attention and positive communication."

Based on the information gathered during the course of the evaluation, the clinician recommended that "due to the limited progress of the biological parents, [] permanent custody [should] be pursued on behalf of the children." The clinician also concluded that because "the level of risk continues to be evident," the children should not be returned to respondents care.

Testimony at the November dispositional hearing revealed that father was no longer making progress in completing the parent-agency agreement. Specifically, his interaction with the children had resulted in father falling asleep three times and making inappropriate comments. In addition, father again failed to provide medication verification to the caseworker and had not participated in individual counseling. Mother did not attend the November hearing. Nonetheless, the reports introduced at the hearing established that she had not contacted FIA since September 2000, had not enrolled in drug treatment, and had not submitted drug screens.

On January 11, 2001, FIA filed a petition seeking termination of respondents' parental rights under MCL 712A.19b(3)(c)(i), (g), (i), (j), and (l).[3] Based on the testimony and evidence presented at the permanency planning hearing, as well as the evidence previously admitted, the referee made factual findings and recommended termination of respondents' parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), (i) and (j). These findings and recommendations were approved by the family court and, in an order dated March 28, 2001, respondents' parental rights were terminated.

II. Standard of Review

[3] As stated previously, subsection 19b(3)(i), as well as 19b(3)(l) applied to mother only.

This Court's review of a trial court's factual findings in an order termination parental rights is for clear error. MCL 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 91989); *In re Vasquez*, 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. MCR 2.613(C); *In re Newman*, 189 Mich App 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); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000); *In re Maynard*, 233 Mich App 438, 450-451; 502 Nw2d 751 (1999).

III. Analysis

Respondents contend that the trial court erred in terminating their parental rights because the petitioner failed to establish a statutory ground for termination by clear and convincing evidence and, alternatively, that the trial court erred when it found that termination was clearly not against the best interests of the children. We disagree.

Respondents' parental rights were to the minor children were terminated under MCL 712A.19b(3)(c)(i), (g), and (j), which provide as follows:

> (c) The parent was a respondent in a proceedings 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 . . . the following:
>
> (i) The 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.
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> * * *
>
> (g) The 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.
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> * * *
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> (i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.[4]

[4] As stated previously, this ground applied only to mother.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parents, that the child will be harmed if he or she is returned to the home of the parent.

Here, the record clearly establishes that mother failed to complete any portion of the parent-agency agreement and also establishes that father, while initially cooperative, failed to undergo individual therapy, failed to provide proof that he was taking his psychiatric medication, and acted in an inappropriate fashion when visiting with the children. The record also establishes that two mental health professionals were concerned about father's ability to care for the children in light of his mental condition. Indeed, one psychiatrist opined that father was likely to "decompensate" to the level where he would need hospitalization, and that the risk of harm to the children if they were returned to father was evident. Finally, the evidence further establishes that respondents failed to obtain and maintain adequate housing, and that mother admitted to leaving the children with an unreliable caregiver. Accordingly, termination of respondents parental rights under subsections 19b(3)(g) was proper.[5]

Moreover, based on the whole record, we are not left with a definite and firm conviction that termination was clearly not in the best interest of the children. MCL 712.19b(5); *In re Trejo, supra*. Respondents' children had been temporary court wards for nearly a year and a half at the time of termination, with no demonstrable improvement in respondents' abilities to meet the needs of the children. The children are entitled to a safe, stable home environment and a degree of permanency in their lives, and there is no evidence that termination of respondent's parental rights is clearly not in the best interests of the children.

Affirmed.

/s/ Michael J. Talbot
/s/ Hilda R. Gage
/s/ Kurtis T. Wilder

[5] Because the family court properly terminated 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 the other subsections. *In re Trejo, supra* at 350.