

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of N.A.M., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT MILLER,

Respondent-Appellant,

and

JACQUES ANTRICE MCKINNEY,

Respondent.

UNPUBLISHED
December 27, 2002

No. 237703
Wayne Circuit Court
Family Division
LC No. 92-297638

In the Matter of N.A.M. and D.A.M., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JACQUES ANTRICE MCKINNEY,

Respondent-Appellant,

and

ROBERT MILLER,

Respondent.

No. 237950
Wayne Circuit Court
Family Division
LC No. 92-297638

Before: Bandstra, P.J., and Zahra and Meter, JJ.

PER CURIAM.

In these consolidated cases, respondents appeal as of right from the trial court's orders terminating their parental rights to the minor children. In Docket No. 237703, respondent Robert Miller (hereinafter "respondent-father") appeals the termination of his parental rights to N.A.M under MCL 712A.19b(3)(a)(ii), (c)(i), (g) and (j). In Docket No. 237950, respondent Jacques McKinney (hereinafter "respondent-mother") appeals the termination of her parental rights to N.A.M and D.A.M under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

I. Docket No. 237703

Respondent-father argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

This Court reviews a trial court's findings of fact in a parental termination case under the clearly erroneous standard. MCR 5.974(I). A finding of fact is clearly erroneous when the reviewing court has a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The burden of proof was on petitioner to prove a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000).

The evidence indicated that respondent-father had contact with his daughter while he was residing in the home of his parents, who had custody of the child, albeit in violation of a court order. Although respondent-father did not attend visits with the child through the agency, the evidence did not clearly and convincingly establish that he failed to maintain contact with the child for ninety-one or more days. Accordingly, the trial court erred in finding that § 19b(3)(a)(ii) was established with respect to respondent-father.

We further agree that the record is devoid of evidence that the child was reasonably likely to be harmed if returned to respondent-father's custody. Therefore, termination of his parental rights under § 19b(3)(j) was also improper.

Nonetheless, termination of parental rights need be supported by only a single statutory ground, *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991), and we agree that termination was warranted under §§ 19b(3)(c)(i) and (g). During the time the child was under the court's jurisdiction, respondent-father did almost nothing to plan for the child's future or to work toward obtaining custody. He had only minimal contact with the caseworker and failed to comply with his treatment plan or to demonstrate that he could care for the child. Accordingly, the trial court did not clearly err in concluding that §§ 19b(3)(c)(i) and (g) were both proven by clear and convincing evidence.

Additionally, the trial court did not clearly err in its consideration of the child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357. Contrary to respondent-father's argument on appeal, the evidence did not indicate that he had a strong bond with his daughter or that he reasonably sought custody of the child.

II. Docket No. 237950

With respect to respondent-mother, the trial court did not clearly err in finding that all three statutory grounds relied on by petitioner were proven by clear and convincing evidence. *In re Miller, supra; In re Trejo, supra* at 350. The evidence revealed a long history of services to respondent-mother, who had continuing difficulty caring for the children on her own because of her mental illness. Although respondent-mother made some progress on her treatment plan, she still had difficulty caring for herself. Considering respondent-mother's history of relapses, during which she was unable to care for the children, the trial court did not clearly err in terminating her parental rights under each of the statutory grounds identified.

We affirm.

/s/ Richard A. Bandstra

/s/ Brian K. Zahra

/s/ Patrick M. Meter