

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTINA MCKIBBEN,
SHEINAH HAMSTRA, and ANTHONY
HAMSTRA-CHERRY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

GLORIA HAMSTRA,

Respondent-Appellant,

and

CHASE CHERRY,

Respondent.

UNPUBLISHED

April 13, 2004

No. 248973

Kent Circuit Court

Family Division

LC No. 01-075200-NA

Before: Cavanagh, P.J., and Murphy and Smolenski, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under 25 USC 1912(f) and MCL 712A.19b(3)(c)(i) and (g). We affirm.

Respondent-appellant argues that the testimony of William Holmes, MSW, did not meet the Indian Child Welfare Act (ICWA) requirement that the trial court's determination be supported by the testimony of "qualified expert witnesses." 25 USC 1912(f). Respondent-appellant makes this argument based on Mr. Holmes' testimony that he could not give an opinion or recommendation on behalf of the tribe. Mr. Holmes is the Director of Social Services for the Pokagon Band of the Potawatami Indian tribe. He was qualified as an expert in Indian child welfare, without objection. Mr. Holmes opined that custody of the minor children by respondent-appellant would likely result in serious emotional or physical damage to the children.

Respondent-appellant argues that the trial court clearly erred in terminating her parental rights because Mr. Holmes did not testify on behalf of the Pokagon Band. The ICWA does not

require that expert witnesses testify on behalf of a tribe or band. In the present case, Mr. Holmes testified that the Pokagon Band had not finished setting up a commission to review and make recommendations in termination cases. Thus, it would not have been possible to obtain the type of testimony respondent-appellant seeks on appeal. Mr. Holmes was well qualified by education, experience, and familiarity with the tribe to give expert testimony in this case. See *In the Matter of Kreft*, 148 Mich App 682, 689-692; 348 NW2d 843 (1986). The testimony and reports of a psychologist, Jeffrey Kieliszewski, Ph.D., also supported the trial court's determination. We find no error.

Affirmed.

/s/ Mark J. Cavanagh
/s/ William B. Murphy
/s/ Michael R. Smolenski