STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of MARY ELIZABETH DENIKE and NANCY MARIE MCLELLAN, Minors

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DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

JOHN JAMES MCLELLAN,

Respondent-Appellant,

and

BARBARA MCLELLAN and DONALD DENIKE,

Respondents.

UNPUBLISHED
October 7, 1997

No. 195961
Macomb Juvenile Court
LC No. 94-039386-NA

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BARBARA MCLELLAN,

Respondent-Appellant,

and

JOHN MCLELLAN and DONALD DENIKE,

No. 196017
Macomb Juvenile Court
LC No. 94-039386-NA

Respondents.

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

PER CURIAM.

Respondent-appellant John McLellan (hereafter "respondent-father") appeals as of right in Docket No. 195961 from the juvenile court order terminating his parental rights to the minor child, Nancy McLellan, under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). Respondent-appellant Barbara McLellan (hereafter "respondent-mother") appeals pursuant to a delayed application for leave to appeal in Docket No. 196017 from the same juvenile court order which terminated her parental rights to both minor children under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). We affirm.

Both respondents argue that the juvenile court's findings were clearly erroneous and that there was not clear and convincing evidence to support termination of their parental rights. This Court reviews a probate court's findings of fact in a parental termination case under the clearly erroneous standard. 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); MCR 5.974(I). The burden of proof is on the petitioner to show that a statutory ground for termination has been shown by clear and convincing evidence. Once that burden is met, the respondent has the burden of coming forward with evidence that termination is clearly not in the child's best interests. Absent any evidence that termination is clearly not in the child's best interests, termination of the parent's rights is mandatory under the revised standard found at MCL 712A.19b(5); MSA 27.3178(598.19b)(5). *In re Hall-Smith*, 222 Mich App 470, 471-473; 564 NW2d 156 (1997).

In respondent-father's case, there was clear and convincing evidence to support termination of his parental rights when he failed to make significant progress in the treatment of his problems. Respondent-father delayed seeking help for his problems and working on the treatment plan. While he made some progress by the time of the termination hearing, there was no guarantee that he would continue with treatment if his child was returned to him. Furthermore, there was evidence that respondent-father was responsible for domestic violence and that he had not completed a domestic violence program, as ordered by the court, by the time of the termination hearing. Accordingly, respondent-father failed to rectify the problems that existed at the time the court assumed jurisdiction over the children.

In respondent-mother's case there also was clear and convincing evidence to support termination of her rights. Respondent-mother required mental health treatment and therapy. She had resumed taking medication for her condition, but she delayed attending therapy until after termination proceedings commenced. In the past, respondent-mother refused to take medication and denied she needed individual counseling. It therefore appears that respondent-mother was not self-motivated to

seek treatment in this case. Because she lacked the self-motivation to seek treatment, it was reasonable for the juvenile court to question whether she would continue to seek treatment if the children were returned to her. Without treatment, respondent-mother could not care for the children. Accordingly, the juvenile court did not err in terminating respondent-mother's parental rights.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh
/s/ Henry W. Saad