

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JASMINE CRICKETT KIDDER,
Minor

DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

WALTER KIDDER,

Respondent-Appellant,

and

DEBORAH KIDDER,

Respondent.

FAMILY INDEPENDENCE AGENCY, f/k/a
DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

DEBORAH KIDDER,

Respondent-Appellant,

and

WALTER KIDDER,

UNPUBLISHED

January 13, 1998

No. 199223

Barry Juvenile Court

LC No. 95-004215-NA

No. 199307

Barry Juvenile Court

LC No. 95-004215-NA

Respondent.

Before: Gage, P.J., and Murphy and Reilly, JJ.

PER CURIAM.

Respondents appeal as of right from a juvenile court order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (j); MSA 27.3178(598.19b)(3)(c)(i) and (j). We affirm.

The record indicates that jurisdiction over the minor child was obtained, in part, on the basis of Walter Kidder's admissions that: (1) he was convicted of attempted assault with intent to commit second-degree criminal sexual conduct involving a son; (2) he had prior contact with petitioner because of allegations of sexual abuse towards another daughter; and (3) two of Deborah Kidder's daughters were removed from her custody in 1994 following allegations of sexual abuse by Walter. The record also indicates that Walter underwent a psychological evaluation by Dr. Vanderbeck, who concluded that he had a "personality configuration [that] is the number one profile characteristic of adult males who sexually molest children." In view of this information, the juvenile court did not err in ordering compliance with a case service plan that required, *inter alia*, the issue of sexual abuse to be addressed in outside therapy. MCL 712A.18f(3); MSA 27.3178(598.18f)(3); *In re Macomber*, 436 Mich 386, 394-395; 461 NW2d 671 (1990).

Next, the record does not support Walter Kidder's claim that his parental rights were terminated solely on the basis of his failure to admit unproven allegations of sexual abuse. Initially, we note that the juvenile court did not terminate Walter's parental rights under §19b(3)(b)(i), which expressly provides that parental rights may be terminated when the parent has sexually abused a child or sibling and the court finds there is a reasonable likelihood that the child will suffer from sexual abuse in the foreseeable future if placed in the parent's home. Rather, the juvenile court identified two other statutory grounds for termination, namely, §§ 19b(3)(c)(i) and (j).

With respect to § 19b(3)(c)(i), in finding that the conditions that led to adjudication continued to exist, the juvenile court did not focus solely on the issue of sexual abuse, but rather, found that Walter refused to accept accountability or responsibility for any of the problems that led to the child's placement in foster care. Notwithstanding Walter's consent to the juvenile court's jurisdiction in this case, as well as a history of prior involvement with petitioner with regard to other children, Walter's therapist testified that Walter continually maintained that he has always been a suitable parent, he refused to acknowledge that there were *any* problem areas that needed to be worked on, he refused to accept personal accountability or responsibility for the circumstances that led to his child being placed in foster care, he refused to participate in a family support group, and he ultimately discontinued treatment indicating that he did not believe that he had any problems that needed to be addressed. Furthermore, Walter maintained that alcohol abuse was no longer an issue, yet he consumed alcohol shortly thereafter in violation of his criminal probation and was sentenced to prison. Walter was not scheduled to be

released from prison until September 1997. In view of this evidence, and considering the fact that the minor child had been in foster care continuously since her birth in February 1995, we conclude that the juvenile court did not clearly err in finding that the requirements of § 19b(3)(c)(i) were established by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993).

Walter Kidder also argues that the juvenile court erred in finding that he did not sign the case service plan until February 2, 1996. We disagree. This finding is supported by the testimony of the foster care worker. Moreover, Walter's discussion of this issue is directed more towards explaining the reasons for the delay in signing the document. The juvenile court's articulated finding does not discuss the reasons for delay and, therefore, cannot be considered clearly erroneous.

We likewise conclude that the juvenile court did not clearly err in terminating Deborah Kidder's parental rights under § 19b(3)(c)(i). The evidence clearly and convincingly established that Deborah has a dependent personality disorder, that she failed to take advantage of past services and counseling in order to effectuate the return of previous children to her custody, that she repeatedly ignored medical advice to quit using marijuana while pregnant with the daughter involved in this case, that she did not make any progress in her latest therapy, and that she voluntarily ceased going to therapy believing that it was unnecessary. We find that Deborah's characterization of the YWCA therapy as being "negative-type counseling" is not supported by the record. Also, contrary to what Deborah argues, the juvenile court did not find that her marijuana use was the sole cause of the child's medical problems. Rather, the juvenile court merely stated that marijuana use had "contributed to" the child's poor condition at birth. This finding is supported by the evidence and is not clearly erroneous.

Because we conclude that respondents' parental rights were properly terminated under § 19b(3)(c)(i), the question whether termination was proper under § 19b(3)(j) is moot.

Finally, while we agree that evidence of the foster mother's intent to adopt was admissible to show possible bias, *People v Mumford*, 183 Mich App 149, 152; 455 NW2d 51 (1990), we find that any error in excluding this testimony was harmless because the evidence was relevant only to the issue of credibility and it is clear from a reading of the juvenile court's fifty-six separate findings of fact and conclusions of law that the decision to terminate did not turn on the credibility of the foster mother's testimony.

Affirmed.

/s/ Hilda R. Gage
/s/ William B. Murphy
/s/ Maureen Pulte Reilly