

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of COREY M. DIBELL, Minor

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CORINE D. HOBERT,

Respondent-Appellant,

and

RICHARD E. DIBELL, JR.,

Respondent.

UNPUBLISHED

March 6, 1998

No. 201904

Barry Juvenile Court

LC No. 90-003251-NA

In the Matter of DUSTIN J. KLINE, Minor

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CORINE D. HOBERT,

Respondent-Appellant,

and

DONALD KLINE,

No. 201905

Barry Juvenile Court

LC No. 90-003249-NA

Respondent.

In the Matter of COREY M. DIBELL, Minor

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RICHARD E. DIBELL, JR.,

Respondent-Appellant,

and

CORINE D. HOBERT,

Respondent.

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

PER CURIAM.

In these consolidated appeals, respondents Corine Hobert and Richard Dibell, Jr. appeal as of right from an opinion and order terminating their parental rights under MCL 712A.19b(3)(b)(i), (b)(ii) and (g); MSA 27.3178(598.19b)(b)(i), (b)(ii) and (g). We affirm.

The juvenile court did not clearly err in terminating respondent Hobert's parental rights under §§ 19b(3)(b)(ii) and (g), or in terminating respondent Dibell's parental rights under §§ 19b(3)(b)(i) and (g). MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Although respondent Dibell claims he was not given adequate time to prove his parenting abilities, the relevant inquiry under § 19b(3)(g) is whether he would be able to provide proper care and custody within a "reasonable time" considering the age of the child. In this case, the evidence was clear and convincing that respondent Dibell would not be able to provide proper care and custody within a reasonable time, if at all.

Finally, while the permanency planning hearing statute prescribes circumstances under which a probate court *must* order initiation of termination proceedings, MCL 712A.19a(5); MSA 27.3178(598.19a)(5), that is not to say that the probate court lacks the authority to order initiation of termination proceedings within its discretion at a dispositional review hearing conducted in accordance

with MCL 712A.19(3); MSA 27.3178(598.19)(3). In any event, petitioner herein clearly had the authority to file a petition requesting termination after the

dispositional review hearing independent of any direction of the court, MCR 5.974(A)(2); MCL 712A.19b(1); MSA 27.3178(598.19b)(1), and petitioner in fact filed such a petition consistent with that authority. Not only did petitioner not object to the initiation of termination proceedings, the caseworker in charge of the case expressly recommended at the termination hearing that respondents' parental rights be terminated. Thus, it is clear that petitioner was not opposed to termination. There is no dispute that respondent Hobert timely received the required notice of the termination petition and hearing. Under these circumstances, we conclude that the juvenile court was not without authority to terminate respondent's parental rights upon finding, as it did, that one or more of the statutory grounds for termination had been established by clear and convincing evidence.

Affirmed.

/s/ Hilda R. Gage

/s/ William B. Murphy

/s/ Maureen Pulte Reilly