

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Somre Robinson, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SARAH CRUMP,

Respondent-Appellant.

UNPUBLISHED

June 20, 2000

No. 222792

Genesee Circuit Court

Family Division

LC No. 91-088207-NA

Before: Meter, P.J., and Griffin and Talbot, JJ.

PER CURIAM.

Respondent appeals as of right from the family court order terminating her parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i), (g), and (j). We affirm.

In an appeal from an order terminating parental rights, the trial court's findings of fact are reviewed for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Vasquez*, 199 Mich App 44, 51; 501 NW2d 231 (1993). A finding is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991). Once the trial court finds at least one statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds there has been a showing by the respondent that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997); *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

Respondent first alleges that although a case service plan was prepared and adopted by the court in accordance with MCL 712A.18f; MSA 27.3178(598.18f), to effectuate the reunification of the family, the plan in this case was not formulated to meet the individual needs of respondent; thus,

respondent was unable to complete all of the tasks assigned to her pursuant to the plan and was set up for failure from the onset of the case through termination of her parental rights. Respondent argues that in light of her dual diagnosis of a mental condition and drug addiction, petitioner was negligent in not referring her to a treatment program which, according to the testimony of a therapist for Community Mental Health, could have best dealt with her dual diagnosis. Respondent further maintains her caseworker never referred her to life skills or domestic violence classes, thus depriving her of the opportunity to conform to the requirements of the case service plan and violating her right to due process under the Michigan and United States Constitutions.

However, the evidence adduced at the termination hearing indicates that the case service plan and services to be provided thereunder were in fact appropriate for respondent's circumstances, and the failure on respondent's part to substantially comply with the requirements of the plan, particularly with respect to substance abuse, was not due to petitioner's negligence in failing to provide the proper services, but rather respondent's inability to control her drug addiction. As respondent's caseworker testified, treatment of respondent's drug addiction was a condition precedent to enrolling her in the life skills and domestic violence classes; respondent would not be able to succeed in such programs without first getting her drug problem under control. Despite opportunities provided by petitioner to do so, respondent, by her own admission, remained addicted to crack cocaine from the time the initial petition had been filed to the termination proceedings. She tested positive for cocaine, failed to maintain regular monthly contact with petitioner and, although she was referred to several substance abuse programs such as IARC, Odyssey House, Transition House and DOT, she would appear but never follow through or complete these programs. Witnesses for petitioner consistently testified at the termination proceeding that respondent's main priority was cocaine, which directly impeded her ability to provide for her own basic needs. In sum, the evidence belies respondent's contention that she was never given the opportunity to even try to comply with the terms of the case service plan due to petitioner's purported negligence in failing to implement individualized measures. Respondent's argument in this regard is therefore without merit.

Respondent next argues the trial court clearly erred in finding that the statutory grounds existed for termination of her parental rights. We disagree. As previously noted, only one statutory ground is required for termination. *In re Hall-Smith, supra*. In the instant case, the trial court noted that the original petition alleged respondent suffered from serious psychological problems, substance abuse, and domestic violence resulting in the premature birth of the minor child. Reviewing the testimony of the witnesses at the termination trial, the court concluded in pertinent part:

[The] Court concludes that mother [respondent] does, in fact, suffer from a recognized mental illness known as schizo-affective disorder; that mother, during the course of the treatment, generally appeared with a poor appearance, disheveled, and was unable to attend to her basic physical needs. She regularly required financial assistance. She was argumentative and volatile. During one home visit, it was noted that mother had no furniture in her house and that mother had sold her furniture for drugs and appeared to be – not to have a stable home. She was evicted from time to time.

Multiple referrals were made for substance abuse treatment. Mother failed to follow through. She would initially make an attempt and then be discharged from the program or voluntarily quit.

But to mother's credit, she did follow through on Community Mental Health treatment and meeting almost all of her appointments at one time for a week. But according to the therapist, she was focused on collecting financial assistance and not on dealing with her problems.

Mother was self-destructive, unable to care for her child, and unmotivated to make fundamental change in her life. Mother has a history of domestic violence . . .

* * *

In the opinion of the therapist . . . mother was not a good risk for parenting, and that the child would be placed at great risk of harm being placed with mother for the reason that mother was unable to care for herself, let alone care for a child, due to her persistent chronic mental illness and substance abuse problems. Mother also had positive drug screens for cocaine while under mental health treatment.

* * *

The child in this case is a special-needs child suffering from asthma; every two or three hours needs medication if – if she is sick, and requires frequent hospitalization.

It is significant in evaluating mother's capacity as to mother's past history with siblings. Court notes that the maternal grandmother has custody of her other child Angela. And that, mother treated the child in question at age-inappropriate manner, that is, seemingly unaware of the child's developmental needs.

Although the trial court found respondent to be "articulate and frankly, likable," the court further noted respondent had visited the child eleven out of twenty-nine scheduled visits and had failed to provide financial support for the child. The court concluded on the basis of respondent's failure to deal with the issues of her mental illness and substance abuse, both of which required long-term treatment, and her inability to deal with her own basic needs, she would be unable to properly parent a special-needs child, twenty-four hours a day, seven days a week.

In light of the proofs, we find no clear error in the trial court's determination that termination of respondent's parental rights on the cited statutory grounds was supported by clear and convincing evidence. Respondent presented no evidence to the contrary showing the termination of her parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Affirmed.

/s/ Patrick M. Meter
/s/ Richard Allen Griffin
/s/ Michael J. Talbot