

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ZEALQUASHA HAMILTON,
KIEONA HAMILTON, ZEAL HAMILTON,
VERNETTA HAMILTON, and TREVARYA
ZEQUJION BROOKS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LATONYA BROOKS,

Respondent-Appellant,

and

JOE HARIS, JOHN DOE, and ZEAL HAMILTON,

Respondents.

UNPUBLISHED

February 9, 2001

No. 227016

Oakland Circuit Court

Family Division

LC No. 97-063335-NA

Before: Zahra, P.J., and Smolenski and Gage, JJ.

PER CURIAM.

Respondent-appellant LaTonya Brooks appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.

In a termination hearing, the petitioner bears the burden of demonstrating a statutory basis for termination by clear and convincing evidence. MCR 5.974(F)(3). The petitioner need only establish one statutory ground for termination. *In re Trejo Minors*, 462 Mich 341, 360; 612 NW2d 407 (2000). This Court reviews for clear error the trial court's decision that a ground for termination has been proven by clear and convincing evidence. *Id.* at 356-357; MCR 5.974(I). "A finding is 'clearly erroneous' [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made."

In re Miller, 433 Mich 331, 337; 445 NW2d 161 (1989), quoting *In re Riffe*, 147 Mich App 658, 671; 382 NW2d 842 (1985).

The trial court first assumed jurisdiction over the four older children when respondent celebrated her birthday by spending the family's money on drugs, resulting in the family's loss of housing. After the four older children had spent over two years in foster care, the trial court found clear and convincing evidence to terminate respondent's parental rights under MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i), because more than 182 days had elapsed since the initial dispositional order, the conditions that led to the adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages. The trial court's finding that petitioner established at least one statutory ground for termination is supported by the evidence in the record demonstrating that respondent was cross-addicted to heroin, crack cocaine and alcohol, that she failed to comply with the treatment plan, and that she failed to resolve her drug addiction during the pendency of this case.

When respondent gave birth to her youngest child, Trevarya Zequjion Brooks, both respondent and the child tested positive for cocaine and heroin and the child experienced medical complications due to the drugs present in his system. The trial court found clear and convincing evidence to terminate respondent's parental rights regarding this child under MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g), because respondent had failed to provide proper care or custody for the child and there was no reasonable expectation that she would be able to provide proper care and custody within a reasonable time considering the child's age. We do not believe that the trial court clearly erred in finding that a statutory basis for termination of respondent's parental rights had been proven by clear and convincing evidence.

Once a statutory basis for termination has been shown, the trial court shall terminate parental rights unless it finds that doing so is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); MCR 5.974(F)(3); *Trejo, supra* at 344. This Court reviews the trial court's decision regarding the child's best interests for clear error. *Id.* at 356-357. The trial court may consider evidence introduced by any party when determining whether termination is clearly not in a child's best interest and neither the petitioner nor the party opposing termination bears the burden of proving the best interests of the child because subsection 19b(5) permits the court to determine the child's best interests from the evidence on the whole record. *Id.* at 352-353.

We do not believe that the trial court clearly erred in determining the best interests of the children. There was testimony in the record that respondent and her children shared an appropriate bond, and we find it unfortunate that these children had to be taken from their mother's care. However, the record supports a finding that respondent failed to resolve her serious drug addictions, despite the numerous services offered to her. The record further

supports a determination that there was no reasonable likelihood that respondent would be able to resolve her addictions within a reasonable period of time, given the children's ages.

Affirmed.

/s/ Brian K. Zahra

/s/ Michael R. Smolenski

/s/ Hilda R. Gage