

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of PRINCE MARTIAL TARALL
PRICE, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHELLY SHAVONE LEWIS,

Respondent-Appellant,

and

JOHN BROWN, a/k/a JOHNNY BROWN, a/k/a
JONATHON BROWN,

Respondent.

UNPUBLISHED
February 27, 2001

No. 222581
Wayne Circuit Court
Family Division
LC No. 98-367979

Before: Smolenski, P.J., and Jansen and Fitzgerald, JJ.

PER CURIAM.

Respondent-mother appeals as of right from an order of the family court terminating her parental rights to her son pursuant to 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.

Respondent-mother argues that termination of parental rights was not supported by clear and convincing evidence and that it was not in the best interests of the child to terminate her parental rights. The family court must find that at least one statutory ground has been proven by clear and convincing evidence to terminate parental rights. MCL 712A.19b(3); MSA 27.3178(598.19b)(3). The family court's findings and decision are reviewed under the clearly erroneous standard of review. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a ground for termination is established, the family court must issue an order terminating parental rights unless there exists clear evidence on the whole record that termination

is clearly not in the child's best interests. *Id.*, p 354; MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Here, there was clear and convincing evidence that respondent-mother deserted the child for ninety-one or more days and did not seek custody of the child during that period. Respondent-mother initially abandoned the child at a gas station on June 16, 1998. Respondent-mother did not appear for the trial held on October 13, 1998, and the child was made a temporary ward of the court by an order entered on November 18, 1998. Respondent-mother again did not appear for the dispositional hearing held on January 26, 1999, and her counsel indicated that he had not had any contact with her or been able to locate her. Respondent-mother did not contact the child until March 1999, when he was at the Methodist Children's Home. Consequently, the family court's ruling that respondent-mother had not visited the child for more than ninety-one days since he had been made a temporary court ward is not clearly erroneous and the family court properly terminated parental rights under MCL 712A.19b(3)(a)(i); MSA 27.3178(598.19b)(3)(a)(i).

There was also clear and convincing evidence that the conditions leading to the adjudication continued to exist and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the child's age. The child had been in foster care for thirteen months at the time of the termination hearing and respondent-mother still did not have housing or income and there was still a great deal of uncertainty surrounding her medical and psychiatric problems. Consequently, the family court did not clearly err in finding that respondent-mother had failed to rectify the problems leading to the adjudication. MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i).

Further, there was clear and convincing evidence that respondent-mother failed to provide proper care or custody and was unlikely to do so within a reasonable time. Respondent-mother abandoned the child on June 16, 1998, because she could no longer care for the child and they had been living in homeless shelters for the previous year. At the time of the termination hearing in July 1999, respondent-mother was still living in a homeless shelter and did not have any housing for herself or the child. She also did not have any income and did not expect to be receiving any Social Security income until September 1999 at the earliest. Consequently, the family court did not clearly err in terminating parental rights on the basis that respondent-mother failed to provide proper care or custody and there was no real indication that she would be able to do so within a reasonable time. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g).

Although there does not appear to be clear and convincing evidence in the record supporting termination on the basis that the child would be harmed if returned to respondent-mother, we need not further address this statutory subsection because only one statutory ground need be proven by clear and convincing evidence to terminate parental rights. MCL 712A.19b(3); MSA 27.3178(598.19b)(3).

Lastly, the family court did not clearly err in finding that termination of parental rights was in the best interests of the child.¹ Here, there is not clear evidence on the whole record that

¹ We note that this finding actually goes beyond the statutory requirement of MCL 712A.19b(5); (continued...)

termination is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5).

Affirmed.

/s/ Michael R. Smolenski

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

(...continued)

MSA 27.3178(598.19b)(5) because the statute does not require that the court affirmatively find that termination is in the best interests of the child. *In re Trejo, supra*, p 357.