STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of BRANDIS BARNES and MARCUS BARNES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARK BUCKWALTER,

Respondent-Appellant,

and

LAURA BARNES,

Respondent.

UNPUBLISHED
February 27, 2001

No. 227809
Macomb Circuit Court
Juvenile Division
LC No. 98-046284-NA

Before: White, P.J., and Wilder and Zahra, JJ.

PER CURIAM.

Respondent-appellant, Mark Buckwalter, appeals as of right from the juvenile court's order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j). We affirm.

Respondent-appellant argues that the trial court erred in terminating his parental rights because there was not clear and convincing evidence supporting termination. We disagree. We review a trial court's decision to terminate parental rights under the clearly erroneous standard. MCR 5.974(I); *In re Cornet*, 422 Mich 274, 277; 373 NW2d 536 (1985). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with the definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). We are required to give regard to the special ability of the trial court to judge the credibility of the witnesses before it. MCR 2.613(C); *In re Miller, supra.*

After reviewing the record in the present case, we conclude that the trial court did not clearly err in finding that the statutory grounds were established by clear and convincing

evidence. The conditions that led to adjudication were respondent-appellant's substance abuse and his inability to provide proper care for the children. Despite more than one year of services aimed toward reunification, the evidence supports a finding that respondent-appellant had not resolved those issues. Respondent-appellant submitted a positive drug screen approximately one month prior to the termination hearing. Moreover, respondent-appellant's failure to complete outpatient substance abuse therapy and parenting classes supports the conclusion that he still cannot provide proper care for the children. Contrary to respondent-appellant's argument, the evidence below established that the FIA made reasonable efforts to provide services prior to seeking termination. Furthermore, there is not clear evidence, on the whole record, that termination was not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 354, 364-365; 612 NW2d 407 (2000).

Respondent-appellant also argues that the trial court erred in admitting probation officer Joseph Brezinski's testimony regarding respondent-appellant's drug use. We review a trial court's decision to admit or exclude evidence for an abuse of discretion. *In re Caldwell*, 228 Mich App 116, 123; 576 NW2d 724 (1998). Brezinski testified, in part, that respondent-appellant submitted one positive drug screen in March 1999 and stated that he used drugs in early June 1999. One of the requirements of Buckwalter's parent/agency treatment plan was to comply with the terms of his probation. Brezinski's testimony regarding Buckwalter's drug use was limited to incidents in 1999 and was relevant to show that Buckwalter did not comply with the terms of his probation during the disposition of this case. Under these circumstances, the trial court did not abuse its discretion in admitting that testimony.

Affirmed.

/s/ Helene N. White
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra