

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DIMITRIUS WARREN MOORE
and SHAUN DE'VILLE BILLINGSLEA, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BETTY BILLINGSLEA,

Respondent-Appellant,

and

WARREN JASPER MOORE and WILLIE
PRINCE,

Respondents.

UNPUBLISHED
March 2, 2001

No. 223890
Wayne Circuit Court
Family Division
LC No. 97-354348

Before: Bandstra, C.J., and Griffin and Collins, JJ.

PER CURIAM

Respondent Betty Billingslea appeals as of right the trial court's order terminating her parental rights to Shaun De'Ville Billingslea and Dimitrius Warren Moore under MCL 712A.19b(3)(c)(i), (g), (j), and (l); MSA 27.3178(598.19b)(3)(c)(i), (g), (j), and (l).¹ We affirm.

On April 4, 1997, petitioner Family Independence Agency filed a petition to take jurisdiction over Shaun and Dimitrius after respondent had gone to the emergency room at Henry Ford Hospital in Detroit and told a staff member that she intended to kill herself and her children.

¹ The parental rights of Warren Jasper Moore and Willie Prince were also terminated, Moore's under MCL 712A.19b(3)(h); MSA 27.3178(598.19b)(3)(h), and Jasper's under MCL 712A.19b(3)(a)(ii). Neither has appealed. All references to "respondent" shall be references to Betty Billingslea.

At a hearing before a referee held on August 4, 1997, respondent admitted that she was addicted to crack cocaine and heroin, and that her drug use adversely affected her ability to care for her children. Based on respondent's admissions, the court took jurisdiction over the children on August 26, 1997. In its order, the court directed respondent to: (1) visit the children weekly; (2) establish a suitable home and income for the children; (3) attend and complete parenting classes and counseling and be evaluated by the Clinic for Child Study; (4) attend domestic violence counseling; and (5) attend in-patient drug counseling and Narcotics Anonymous and present continuing evidence through drug screens that she was drug free.

Over the next year, respondent participated in in-patient drug treatment, family and individual counseling, and visitation with the children. On September 21, 1998, three months after completing in-patient drug treatment, respondent gave birth to Chantel Moore; both respondent and Chantel tested positive for cocaine and heroin. FIA filed a petition to take jurisdiction over Chantel on October 2, 1998; it amended the petition on December 14 to request that respondent's parental rights be terminated. The court terminated respondent's rights to Chantel on June 21, 1999.

On March 22, 1999, FIA riled a petition to terminate respondent's parental rights to Shaun and Dimitrius under 712A.19b(3)(c)(i), (g), (j), and (l); MSA 27.3178(598.19b)(3)(c)(i), (g), (j), and (l). A hearing was held on the petition on August 3, 1999. FIA introduced a report completed by Wendy Roblyer, a case manager with Teen Ranch Family Services. The report questioned respondent's understanding of her parental role during scheduled visitation, noting that she made special efforts to find fault in the care of the children and that she showed irritation with them when they tried to get her attention. She was terminated from her job at Arrow Uniform Rental in March 1999; she told Roblyer that she was working in a temporary, part-time capacity for a janitorial service agency, a job that Roblyer characterized as insufficient to provide for the children.

Respondent did not consistently attend the outpatient substance abuse program to which she was assigned, and was terminated on June 7, 1999. Although respondent claimed to have sought treatment from another program, she did not provide any information about the program until she testified at the termination hearing. She completed all weekly drug screens between March and May 1999. In May, Teen Ranch became aware that respondent was no longer being screened regularly. Between May 24 and August 3, 1999, respondent submitted to five drug screens, all of which were negative. Respondent had told Roblyer that she stopped going to outpatient treatment because she did not have a therapist; however, on contacting the center, Roblyer learned that respondent in fact had a therapist.

Respondent testified that she did not immediately go into outpatient drug treatment after she left the in-patient portion of her program because of problems with her pregnancy. She had tried to enter several programs; one had a waiting list, one simply gave her an assessment, and her worker changed her program on another occasion. Ultimately, she was referred to the Wendie Lee Center, which she attended from April 5, 1999 to June 7, 1999. She stopped attending because the program frequently did not have therapists available. By the date of the hearing, respondent was attending sessions at Quality Behavior Incorporated.

Respondent claimed to be attending Narcotics Anonymous meetings. She claimed to have submitted to all drug screenings, but admitted that she did not provide one on the day before the termination hearing. She explained that she could not find her state ID, which she would need to present at the lab; when she found that she had left her ID at the lab, she tried to get there before it closed, but was unsuccessful in her attempt. On cross-examination, she admitted that she had not been tested since July 16. She said her worker could contact her on her cell phone to schedule drug screenings. However, she also said that she did not carry her cell phone with her.

Naveed Syed, a social worker with Quality Behavior, Inc., testified that he had seen respondent once, on June 30, 1999. She had also come to the agency on July 3 and 17. She was supposed to come in for treatment five days per week. Following the close of evidence and argument of counsel, the court terminated respondent's rights on the bases raised in the petition for termination.

In a termination hearing, the petitioner bears the burden of showing by clear and convincing evidence a statutory basis for termination. MCR 5.974(F)(3). Once a statutory basis for termination is shown, the trial court shall terminate parental rights unless it finds that termination of parental rights is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). This Court reviews the trial court's decision for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). "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." *Id.*, quoting *In re Riffe*, 147 Mich App 658, 671; 382 NW2d 842 (1985).

Respondent has limited her argument to the question of whether it was in the best interests of the children for their rights to be terminated. She concedes that her rights to Chantel had been terminated, which would give a basis for termination under MCL 712A.19b(3)(l); MSA 27.3178(598.19b)(3)(l), and leave only the question of whether termination was in the best interests of the children. See *Trejo Minors*, *supra* at 355 (once a single basis for termination is proven, the liberty interest of the parent no longer includes the right to custody and control of the children). Respondent goes on to argue that none of the bases for termination were proven, other than the termination of rights to Chantel. However, the record shows that there was ample evidence to support termination on the other grounds found by the court.

Respondent had been drug-dependent for a number of years, resulting in cardiac problems. In fact, the record discloses that, although respondent used an alias when she threatened to kill the children and herself at Henry Ford Hospital in 1997, the hospital staff recognized her because she was a cardiac patient and known drug addict. It appears from the record that respondent made some efforts toward dealing with her drug problem, entering in-patient drug rehabilitation and, from all accounts, successfully completing the in-patient portion of her treatment in June 1998. However, in September 1998, Chantel was born and tested positive for cocaine and heroin. Thereafter, respondent's cooperation with the parent/agency agreement was limited at best. She failed to make herself available for random drug screens; she called the office to schedule the screens, rather than the office calling her to notify her of the time of the drug screen. In addition, she failed to have a drug screen performed as late as the day

before the termination hearing. She had no regular phone, and did not keep her cellular phone with her, so there was no way by which she could have been reached. She was supposed to attend outpatient drug therapy five days per week, but attended only sporadically, and never attended with the frequency required by the agreement. While there might have been extenuating circumstances for respondent's failure to comply with some aspects of the agreement, her overall conduct justified a conclusion that she would not be able to provide the children with a stable home. See *In re Jackson*, 199 Mich App 22, 27; 501 NW2d 182 (1993) (partial noncompliance with parent/agency agreement may support termination); *In re Hall*, 188 Mich App 217, 223-224; 469 NW2d 56 (1991).

In addition, she and Warren Moore had been involved in a long-term relationship, punctuated by episodes of violence against one another. Moore and respondent were both addicted to cocaine. Respondent had indicated her intention to continue her relationship with Moore, but wavered at the hearing, indicating that she would live with Moore again "[i]f so be it." Based on her testimony and the history of her relationship with Moore, the court could have concluded that respondent would likely continue in a destructive relationship which would result in the children's needs being neglected.

Respondent argues that she substantially complied with the parent/agency agreement, and thus termination was not in the best interests of the children. As noted above, respondent did not, in fact, comply. Although she testified that she attempted to comply, her testimony was contradicted by the testimony of her caseworker. The court clearly chose to believe the caseworker over respondent. This Court must accord deference to the trial court's assessment of the credibility of the witnesses before it. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

In short, the evidence showed that respondent performed well when placed in a highly controlled situation (in-patient drug treatment), but could not continue when released. She could not maintain steady employment, remain drug-free, or fully comply with the requirements of the parent-agency agreement, thus indicating that she would be unable to take on the responsibility of parenting the children. The court's actions were not clearly erroneous.

We affirm.

/s/ Richard A. Bandstra
/s/ Richard Allen Griffin
/s/ Jeffrey G. Collins