

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SALOJAN NECHELLE
ROBINSON-HOWARD, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SYLVIA ROBINSON,

Respondent-Appellant.

UNPUBLISHED
March 20, 2001

No. 225235
Wayne Circuit Court
Family Division
LC No. 98-367654

Before: Murphy, P.J., and Hood and Cooper, JJ.

PER CURIAM.

The court terminated respondent's parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist), and (j) (reasonable likelihood child will be harmed if returned to parent); MSA 27.3178(598.19b)(3)(c)(i) and (j). The court awarded sole custody of the minor child to her father, Osman Hussanein Hudson, with whom she had been placed since the court took jurisdiction after an adjudicative hearing. Respondent now appeals as of right.

A two-prong test applies to a decision of the family division of circuit court to terminate parental rights. "First, the probate court must find that at least one of the statutory grounds for termination, MCL 712A.19b; MSA 27.3178(598.19b), has been met by clear and convincing evidence." *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). We review the family court's decision for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake had been made. *Miller, supra*. Once a statutory ground for termination of parental rights is established, the court must terminate parental rights unless it finds that termination of parental rights to the child is clearly not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); MCR 5.974(E)(2); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000).

Here, the court based termination on §§ 19b(3)(c)(i) and (j), which provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The court assumed jurisdiction over the child following an incident in which respondent left the child home alone overnight, locked inside a house which was secured with barred gates covering the windows and doors. The court considered this action neglectful, and found that the circumstances presented a serious safety issue. Due to respondent's exhibition of such poor parental judgment, the court ordered respondent to attend parenting classes and to undergo counseling. The court sought to ensure respondent's parental fitness before returning the child to her care. In the meantime, the court permitted weekly visitation.

From the outset of the court's involvement, however, respondent exhibited an unreasonable mistrust of the Family Independence Agency. Herself a social worker who had previous experience in the area of family reunification efforts, respondent all but refused to deal with the FIA workers assigned to her case, she repeatedly declined service referrals made these workers, and she seemingly attempted to define and control the parameters of her own case. Although respondent contends that she substantially complied with the parent/agency agreements drafted during her case, she repeatedly refused to sign the agreements because she contested their basic facts and allegations, and she elected to attend a parenting class and engage therapists that did not satisfy agency or court requirements. Despite respondent's claims that she had sufficiently addressed the issues which led to the child's removal, the court was never able to determine or monitor respondent's progress because, unlike the referred services that respondent declined, the programs and parties she engaged on her own did not provide assessments for the court's review.

Not only did respondent almost completely fail to comply with the service requirements of the parent/agency agreement, she engaged in visits with her child on only three occasions during the pendency of these proceedings. Respondent continually made excuses for her failure to religiously visit with the child, these varying between concerns that she might encounter professional acquaintances and claims that different medical disabilities prevented her from driving to visits and left her confused as to the times established for visits. Contrary to respondent's assertions on appeal, the record evidences sincere and significant efforts on the part of the FIA to accommodate the claimed medical disabilities once workers were made aware of the issues.

Respondent's underlying contention that any failure to comply with the court's orders was the result of hindrance on the part of the FIA workers is simply not supported by the record. Accordingly, the court appropriately found that clear and convincing evidence supported termination pursuant to § 19b(3)(c)(i). The initial questions surrounding concerns of respondent's parental fitness had not been answered. As such, the conditions which led to adjudication continued to exist over a year later. The court was also correct to find that in light of the dearth of evidence regarding respondent's progress in the identified problem areas, the child would be at a risk of harm if returned to respondent. Clear and convincing evidence also supported termination pursuant to § 19b(3)(j).

Affirmed.

/s/ William B. Murphy
/s/ Harold Hood
/s/ Jessica R. Cooper