

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of R.E.A., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBIN JOSETTE EUBANKS,

Respondent-Appellant,

and

ABDUL ALIM AKBAR,

Respondent.

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UNPUBLISHED

June 26, 2001

No. 231314

Wayne Circuit Court

Family Division

LC No. 99-382807

Before: Sawyer, P.J., and Griffin and O'Connell, JJ.

PER CURIAM.

Respondent appeals as of right from the family court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), (j); MSA 27.3178(598.19b)(3)(c)(i), (g), (j).<sup>1</sup> We affirm.

A family court may terminate parental rights if the court finds clear and convincing evidence that one or more enumerated statutory grounds for termination exist, unless it finds that termination is clearly not in the child's best interests. MCL 712A.19b(3), (5); MSA 27.3178(598.19b)(3), (5). This Court reviews the trial court's decision to terminate parental rights under the clearly erroneous standard. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). "A finding of fact is clearly erroneous where the reviewing court is left with a definite

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<sup>1</sup> The family court also terminated the parental rights of the minor child's father. The father has not appealed the trial court's decision.

and firm conviction that a mistake has been made.” *In re Terry, supra* at 22. This Court reviews for clear error both the trial court’s decision that “a ground for termination has been proven by clear and convincing evidence and, where appropriate, the court’s decision regarding the child’s best interest.” *In re Trejo, supra* at 357. In applying the clearly erroneous standard, this Court should recognize the special opportunity the trial court has to assess the credibility of the witnesses. MCR 2.613(C); *In re Miller, supra* at 337.

On appeal, respondent contends the trial court clearly erred when it terminated her parental rights. We disagree.

In September 1999, the involved minor child, respondent’s five-year-old son, came to the attention of petitioner Family Independence Agency (FIA) when the maternal grandmother contacted FIA and rescinded her guardianship of the child due her own health problems. The child had been living with his maternal grandmother since September 1995, having been removed from respondent’s home because of a domestic violence incident involving prostitution between respondent and the child’s father. The child was placed in foster care and FIA filed a petition for temporary custody. At the hearing on the petition, respondent admitted that the child was removed from her home because of domestic violence, that she had not seen him in at least two years, that she used crack cocaine two months prior to the hearing and smoked marijuana three weeks prior to the hearing, and that she suffered a stroke three months prior to the hearing as a result of her use of crack cocaine. Based on these admissions, the family court asserted jurisdiction over the child and subsequently made the child a temporary ward of the court.

Respondent entered into a parent agency agreement with petitioner, which required respondent to submit to a drug assessment, complete a drug treatment program, submit to random drug screens, attend parenting classes, obtain safe and suitable housing, attend individual counseling, and regularly visit her child. Subsequently, respondent called the foster care worker from Los Angeles, California, and informed her that she could not attend a March 2000 dispositional review hearing. Respondent also did not attend the permanency planning hearing or the pretrial hearing for permanent custody of the minor child.

At the permanent custody hearing, a foster care worker testified that respondent did not comply with any of the requirements of the parent agency agreement. Although petitioner made two referrals for respondent to have a drug assessment, respondent never followed through on the referrals. Petitioner also referred respondent for participation in a drug treatment program, but respondent never entered a drug treatment program and never complied with the requirement to submit to random drug screens. Although respondent partially complied with the requirement to complete parenting classes, she was dismissed from such classes because of frequent tardiness. Additionally, respondent did not comply with the requirement to participate in individual counseling. Respondent was transient, moving from an apartment with a friend to another apartment, then to her maternal grandmother’s home and later to a different friend’s home. Eventually, respondent moved back into the original apartment. Prior to the permanent custody hearing, respondent did not provide the foster care worker or petitioner with any documentation that she was employed or was participating in a job-training program; however, at the permanent custody trial, respondent presented a letter to the court stating that she was employed by the Home Independent Office Agency. Respondent attended only five of the twelve scheduled visits

with her son between September 1999 and December 30, 1999. She visited her son only two times while he was hospitalized between January 1, 2000, and May 3, 2000, and did not visit him after the latter date.

Respondent testified on her own behalf, admitting that she neither attempted to take any drug screens nor sought a drug assessment. She also admitted that she could only take care of her son with her mother's help.

Respondent maintains on appeal that she was unable to complete the parent agency agreement because the foster care workers mailed paperwork to the wrong address and gave respondent the wrong telephone number for referral services. However, we find that these alleged discrepancies in addresses and phone numbers did not hinder respondent's completion of the parent agency agreement. One foster care worker testified at trial that she checked all the numbers before she gave the referrals to respondent. Furthermore, her number had never changed and respondent called her several times, but never with regard to problems with the referrals. The record further reflects that notice of the proceedings was sent to two different addresses for respondent in Detroit, and the court also authorized notice to respondent by publication. Although one of the foster care workers testified that she tried to contact respondent numerous times at her mother's house and through a cell phone number, she was never able to make contact. Several referrals were mailed to respondent and copies were faxed to her attorney. The foster care worker testified that respondent later explained to her that she could not read and did not have time to go over the referrals with her attorney. On the basis of this record, we find respondent's argument that her progress in completing the parent agency agreement was hampered by petitioner's allegedly faulty communication channels to be without merit.

In sum, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. The conditions that led to the adjudication of the child still existed at the time of the permanent custody trial, respondent failed to show that she would be able to provide for her child within a reasonable time, and finally, the proofs demonstrated a reasonable likelihood that the child would be harmed if he were returned home. The record reflects that respondent was repeatedly offered a myriad of services, but failed to take advantage of any of those services. Respondent has failed to provide her son with proper care and custody since he was fifteen months of age, with no reasonable expectation of her doing so in the foreseeable future despite being presented with a detailed plan for turning her life around. Given respondent's failure to comply with the parent agency agreement, the uncertainty as to when or if respondent would overcome her drug addiction, and respondent's failure to obtain safe, suitable housing, termination of respondent's parental rights was not contrary to the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo, supra*.

Affirmed.

/s/ David H. Sawyer  
/s/ Richard Allen Griffin  
/s/ Peter D. O'Connell