STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JH, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

JOYCE DENISE HESTER,

Respondent-Appellant.

UNPUBLISHED
January 18, 2002

No. 233609
Wayne Circuit Court
Family Division
LC No. 99-383,977

Before: Talbot, P.J., and Smolenski and Wilder, JJ.

PER CURIAM.

Respondent Joyce Hester appeals as of right from a family court order terminating her parental rights to JH under MCL 712A.19b(3)(c)(i) and (g). We affirm.

I. Facts and Proceedings

Respondent first came to the attention of the Family Independence Agency (FIA) on December 3, 1999, after Keith Walker,[1] JH's father, informed the FIA that respondent left JH with him on November 30, 1999, and that he was unable to care for her. In informing the FIA that he could not care for JH, Walker stated that his home was without gas and water and had plumbing problems. Walker also informed the FIA that respondent's whereabouts were unknown, and that she had a history of unstable housing and drug abuse. Based on this information, the FIA filed an initial petition with the family court on December 7, 1999. Following a preliminary hearing, the family court authorized the petition, made JH a temporary court ward, and placed the child in the care of the FIA for placement and care with a suitable relative.

[1] At the permanent termination trial, Walker indicated his willingness to release his parental rights to JH. The trial court then found that clear and convincing evidence existed to terminate his parental rights pursuant to MCL 712A.19b(3)(a)(ii), (c)(i) and (g). Accordingly, the court terminated Walker's parental rights. Walker has not appealed this decision.

In January 2000, the FIA developed a parent-agency agreement that required respondent to (1) maintain monthly contact with the assigned foster care worker (2) attend all court hearings regarding JH, (3) participate in drug and alcohol counseling, (4) submit to random drug and alcohol screens, (5) obtain legal employment and safe, suitable housing, and (6) visit JH weekly. This agreement was adopted by the family court on February 7, 2000. In adopting the plan, the family court indicated that respondent was also to undergo a psychological evaluation, attend counseling, and complete parenting classes. On November 14, 2000, based respondent's lack of progress in achieving the goals established in the parent-agency agreement, the FIA filed a supplemental petition seeking termination of respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i), (g) and (j).

On February 28, 2001, the family court conducted a termination hearing. At trial, the only witness called to testify was the FIA caseworker assigned to respondent's case. She testified that respondent failed to comply with the requirements of the parent-agency agreement. Specifically, the caseworker testified that respondent had tested positive for cocaine on January 4, 2001 and July of 2000; that respondent had been discharged from two inpatient drug treatment programs for failing to comply with the rules; that respondent had not obtained suitable housing or employment; and that respondent failed to complete parenting classes and failed to provide random, weekly drug screens. The caseworker also testified that respondent had not visited JH since Christmas of 2000 and that there did not appear to be any bond between respondent and JH. Based on these things, as well as respondent's mental retardation and psychiatric problems, the caseworker recommended that respondent's parental rights be terminated.

Respondent chose not to call any witnesses at trial; instead, she relied on cross-examination of the caseworker and her counsel's closing argument. In sum, her only defense for not terminating her rights was the FIA had not given her the necessary accommodations for her psychological problems and mental capacity and that she should be given more time to address the goals of the parent-agency agreement after having time to receive therapy and education for her psychological and mental disabilities.

Based on this evidence, as well as evidence established at previous dispositional hearings, the family court found that petitioner had established clear and convincing evidence that termination was proper under subsections (3)(c)(i) and (g) and also determined that termination was clearly not against the best interests of JH. Accordingly, the trial court entered an order terminating respondent's parental rights to JH.[2]

II. Standard of Review

This Court's review of a trial court's factual findings in an order terminating parental rights is for clear error. MCL 5.974(I); *In re Miller*, 433, 337; 445 NW2d 161 (1989); *In re Vasquez*, 199 Mich App 44, 51; 501 NW2d 231 (1993). A finding of fact is clearly erroneous if, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, *supra*. Deference must be accorded to the trial court's assessment of the credibility of the witnesses before it. MCL 2.613(C); *In re*

[2] As previously discussed *supra* at n 1, the order also terminated Walker's rights to JH.

Newman, 189 Mich 61, 65; 472 NW2d 38 (1991). Once the family court finds a statutory ground for termination by clear and convincing evidence, the court must terminate parental rights unless it finds, based on the whole record, that termination is clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo Monors*, 462 Mich 462 Mich 341, 350; 612 NW2d 407 (2000); *In re Maynard*, 233 Mich App 438, 450-451; 592 NW2d 751 (1999).

III. Analysis

Respondent contends that the family court erred by terminating her parental rights without providing her with additional time to seek psychiatric counseling and additional assistance in complying with the parent-agency agreement. We disagree.

Respondent's parental rights were terminated pursuant to MCL 712A.19b(3)(c)(i) and (g), which provide for termination as follows:

> (3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:
>
> (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. . . the following:
>
> (i) The conditions that led to 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.
>
> * * *
>
> (g) The parent, without intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Here, the evidence indicates that the family court authorized the initial petition in this case on December 7, 1999 and that as of February 28, 2001, the conditions that led to the adjudication continued to exist. Specifically, respondent had failed to obtain suitable, safe housing for herself and JH, failed to obtain a legal source of income, and failed to remain drug free. In addition, the evidence clearly establishes that respondent had failed to visit with JH weekly, that respondent did not appear to have a bond with JH, and that respondent had failed to complete drug treatment, parenting classes, psychiatric counseling, or random drug screens. In addition, the caseworker testified that due to respondent's continued drug use, mental capability, and lack of housing and employment, respondent would not be able to properly care for JH within a reasonable time. Accordingly, termination of respondent's parental rights under subsections 19b(3)(c)(i) and (g) was proper. Further, based on this evidence, we are not left with the definite and firm conviction that termination was clearly not in the best interests of JH. MCL 712A.19b)(5); *In re Miller*, *supra*; *In Re Trejo*, *supra*; *In re Maynard*, *supra*.

Affirmed.

/s/ Michael J. Talbor
/s/ Michael R. Smolenski
/s/ Kurtis T. Wilder