

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHEYANNE MORGAN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELVIN DALE MORGAN,

Respondent-Appellant.

UNPUBLISHED

March 1, 2002

No. 235151

Genesee Circuit Court

Family Division

LC No. 00-112573-NA

Before: Jansen, P.J., and Zahra and Meter, JJ.

PER CURIAM.

Respondent father appeals as of right from the family court's order terminating his parental rights to his daughter under MCL 712A.19b(3)(b)(i), (c)(i), (j), (k)(ii), and (n). We affirm.

Having reviewed the lower court record, we find that there was clear and convincing evidence to warrant termination of respondent's parental rights under MCL 712A.19b(3)(b)(i), (k)(ii), and (n). See MCR 5.974(D)(3) and MCL 712A.19b(3). Here, respondent had been convicted in 1993 of fourth-degree criminal sexual conduct involving a fourteen-year-old girl and was imprisoned for two years. Petitioner filed the supplemental petition to terminate parental rights in October 2000 and alleged that the minor child's twelve-year-old half-sister reported in January 2000 that respondent had molested her on four prior occasions. The family court specifically found the twelve-year-old witness to be competent and credible at the trial and we defer to the family court's superior ability to determine the witness' credibility. See MCR 2.613(C). There was ample testimony from the twelve-year-old girl that respondent had sexually abused her while he lived in the minor child's mother's home. Consequently, the family court did not clearly err in terminating parental rights under subsections 19b(3)(b)(i), (k)(ii), and (n).¹

¹ Although we agree with respondent that there was not clear and convincing evidence to support termination of parental rights under subsections 19b(3)(c)(i) and (j) because the allegations leading to the adjudication did not continue to exist since the child's mother forced respondent to leave the home and the child had never lived in respondent's home, only one statutory basis need
(continued...)

Additionally, the family court did not clearly err in refusing to determine that termination of parental rights would not be in the child's best interest under MCL 712A.19b(5). The family court carefully and clearly noted all factors weighing for and against termination of parental rights. The family court's emphasis of respondent's history of molesting young girls (and respondent's denial of those acts) and his mental illness, for which he refuses to take medication, is not clear error because it is amply supported by the record.

Accordingly, the family court did not clearly err in terminating respondent's parental rights. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Kathleen Jansen

/s/ Brian K. Zahra

/s/ Patrick M. Meter

(...continued)

be proved by clear and convincing evidence to warrant termination of parental rights. MCL 712A.19b(3).