

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHARMAGNE CHRISTIAN,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ATASSI CHRISTIAN,

Respondent-Appellant,

and

FALICIA CHRISTIAN,

Respondent.

In the Matter of CHARMAGNE CHRISTIAN,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FALICIA CHRISTIAN,

Respondent-Appellant,

and

ATASSI CHRISTIAN,

Respondent.

UNPUBLISHED
November 25, 2003

No. 247604
Wayne Circuit Court
Family Division
LC No. 96-336823

No. 247799
Wayne Circuit Court
Family Division
LC No. 96-336823

Before: Cooper, P.J., and Markey and Meter, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right from the trial court's order terminating their parental rights to the minor child under MCL 712A.19b(3)(b)(i), (b)(ii), (g), (i) and (j). We affirm.

The minor child, who tested positive for marijuana at birth, was removed as a newborn infant. The petition sought termination of respondent-mother's parental rights at the initial disposition based on her history of substance abuse, her history of physical abuse and neglect of her older children, and her failure to comply with a treatment plan, which led to the termination of her parental rights to those children. The petition also sought termination of respondent-father's parental rights at the initial disposition based on his history of substance abuse, criminal convictions and the prior termination of his rights to his older children for failure to comply with his treatment plan and abandonment.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *Id.* at 354; MCL 712A.19b(5). This Court reviews the trial court's determination for clear error. *In re Trejo, supra* at 356-357. 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 has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Further, to be clearly erroneous the decision must be "more than just maybe or probably wrong." *In re Trejo, supra* at 356, quoting *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent-mother argues that the trial court erred because termination of her rights was clearly not in the child's best interests.¹ We disagree. Based on the evidence in the record, we are not left with a definite and firm conviction that the trial court clearly erred by terminating respondent-mother's parental rights. MCL 712A.19b(5); *In re JK, supra* at 209-210. Respondent-mother testified that she visited the child any time she could; she was bonded with the child; she had "totally changed," and was capable of raising the child without "having an attitude or being frustrated or yelling at her," she submitted to drug screens with negative results; she was attending counseling; and she completed parenting classes in 1997. We find that this limited evidence does not "clearly overwhelm," *In re Trejo, supra* at 364, the fact that the child tested positive for marijuana at birth and respondent-mother tested positive for marijuana at the time of the petition, respondent-mother's extensive history of neglect and physical abuse of her

¹ Respondent-mother does not challenge the sufficiency of the evidence relied upon to support the statutory grounds for termination.

older children and her apparent inability to rid herself of drugs or successfully rehabilitate herself.

Respondent-mother argues that because of the bond between her and the child it was contrary to the child's best interests to terminate her parental rights. But, the trial court found that no significant bond existed between the child and the parents. This finding was not clearly erroneous, especially given that the child was removed as a newborn infant, and respondent-mother only visited her for a brief period before the termination trial. Therefore, we find that the trial court properly concluded that termination of respondent-mother's parental rights was clearly not contrary to the child's best interests. *In re Trejo, supra* at 356-357.

Next, respondent-father argues that petitioner failed to prove a statutory ground for termination by clear and convincing evidence. We disagree.

Among the statutory grounds on which the court found that termination was justified was MCL 712A.19b(3)(i). Termination under subsection (3)(i) was appropriate if petitioner established by clear and convincing evidence that "parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful." MCL 712A.19b(3)(i). The lower court file includes the prior court proceedings, which resulted in the termination of respondent-father's parental rights to his older children.² After the court took temporary custody of the older children on January 27, 1997, it ordered respondent-father to visit, establish a suitable home and income, attend and complete parenting classes and counseling, and to be evaluated by the Clinic for Child Study. Because respondent-father's failed to make "any progress whatsoever" on his treatment plan to reunite with his children, failed to visit, support, or plan for the children, and failed to prove that he had attended parenting classes or counseling, the court terminated his parental rights to the older children under MCL 712A.19b(3)(a)(ii), (c)(i) and (g). The court's prior order and findings provide clear and convincing evidence that respondent-father seriously neglected his older children. Further, the findings evidence that although respondent-father had the opportunity to rehabilitate himself during the proceedings, any attempt was unsuccessful. Although respondent-father was enrolled in a substance abuse treatment and prevention program at the time of the termination trial, there was no evidence that respondent-father successfully addressed the parenting issues leading to his past termination. Accordingly, clear and convincing evidence supported termination under MCL 712A.19b(3)(i).

We note that clear and convincing evidence did not support termination of respondent-father's parental rights on the other statutory grounds. But, any error is harmless because petitioner established at least one statutory ground for termination of respondent-father's parental rights. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Therefore, extended discussion of the other grounds is not necessary.

Respondent-father also argues that the court erred because termination of his parental rights was clearly not in the child's best interests. Because respondent-father did not testify or

² The trial court took judicial notice of the previous orders and findings of the case file.

present witnesses at the termination trial, limited evidence exists regarding his ability to successfully parent and care for the child. The only evidence in support of his argument was that he was employed at the time of the petition, that he was participating in a substance abuse treatment and prevention program, and that he submitted to two drug screens with negative results. On the other hand, there was no evidence that respondent-father had visited or bonded with the child; there was evidence that he seriously neglected his older children resulting in termination of his parental rights to those children, and there was no evidence that he had successfully addressed his parenting issues since the past termination. The limited evidence that supports respondent-father's argument does not "clearly overwhelm," *In re Trejo, supra* at 364, the past history of serious neglect of his older children. Accordingly, the trial court did not clearly err by concluding that the evidence, on the whole record, failed to establish that termination of respondent-father's parental rights was clearly not in the child's best interests. *In re Trejo, supra* at 354.

We affirm.

/s/ Jessica R. Cooper
/s/ Jane E. Markey
/s/ Patrick M. Meter