

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DORRIAN ANDREW ELKINS
and ADARIA DANNIN ELKINS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MEGINE HENDRICKS WETMORE,

Respondent-Appellant.

UNPUBLISHED
February 19, 2004

No. 250086
Ionia Circuit Court
Family Division
LC No. 02-000122-NA

In the Matter of DYSHAWNA CRAWFORD,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MEGINE HENDRICKS WETMORE,

Respondent-Appellant

and

JEFFERY PAUL CRAWFORD,

Respondent.

No. 250087
Ionia Circuit Court
Family Division
LC No. 02-000203-NA

Before: Murray, P.J., and Murphy and Markey, JJ.

PER CURIAM.

In these consolidated appeals, respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c) and (g).¹ We affirm.

Respondent-appellant's two older children, Dorrian and Adaria, were removed from her home after petitioner observed on numerous occasions the unhealthy, unsafe and unfit conditions of the home and after a number of service providers attempted to provide services to her without success. Thereafter, respondent-appellant gave birth to Dyshawna who was immediately removed from her care because of respondent-appellant's neglect of her older children. The court ordered that respondent-appellant comply with a case services plan, which required her to achieve certain objectives and take part in several services to improve her parenting ability. Approximately one year after the two older children were removed, petitioner filed the petitions to terminate respondent-appellant's parental rights based on her past neglect and her failure to undertake the court-ordered services.

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 Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "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." *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). This Court reviews the trial court's determination for clear error. *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." *Trejo*, *supra* at 356, quoting *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent-appellant first argues that petitioner failed to prove a statutory ground for termination of her parental rights by clear and convincing evidence. We disagree and find that sufficient evidence supported termination of her parental rights under MCL 712A.19b(3)(c) and (g).

Termination under subsection (3)(c)(i) was appropriate if petitioner established by clear and convincing evidence that "[t]he 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." The primary conditions that led to the adjudication were the respondent-appellant's physical neglect of her children and the unsafe, unhealthy, and unfit conditions of her home. The underlying cause of respondent-appellant's neglect was her lack of appropriate parenting skills and her inability to provide proper care for her children. Although we do not find that the record clearly supported a finding that respondent-appellant continued to reside in an unfit home, we find that the evidence clearly established that she did not possess the

¹ The trial court did not specify whether it terminated respondent-appellant's parental rights pursuant to subsection (c)(i) or (c)(ii).

ability to properly parent the children nor would she likely be able to rectify her parenting deficiencies within a reasonable time.

Respondent-appellant's history of severe neglect of her older children, her failure to even minimally comply with the court-ordered case services plan,² and her continued lack of parenting ability³ provide clear and convincing support that respondent-appellant's parenting deficiencies continued to exist and would likely not be rectified within a reasonable time. MCL 712A.19b(3)(c)(i); see *Trejo*, *supra* at 358-359. Although respondent-appellant had recently taken steps to begin attending therapy, obtain her GED and employment, and had started attending parenting classes again, her efforts came too late in the proceedings to suggest that she would follow through, especially given her failure to follow through with services in the past. Based on this evidence, we cannot find that the trial court clearly erred by terminating respondent-appellant's parental rights under subsection (c)(i).

We also find that respondent-appellant's failure to comply with the case services plan supports termination of her parental rights under subsection (c)(ii), which provides for termination if "[o]ther conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." Respondent-appellant was put on notice in the petitions before petitioner filed the termination petition that she had severely neglected her children, and she admitted to most of the allegations concerning the neglect. Case managers discussed with respondent-appellant what she needed to accomplish in order to reunite with her children, reviewed each step in the case services plan with her, and the plan was set forth in writing. Thus, respondent-appellant was given repeated notice of the changes she was required to make and the services she was required to participate in to be reunited with her children. Despite the notice, respondent-appellant failed to substantially

² Despite having almost one year since the initial disposition to improve her parenting ability, with the exception of completing a stress management course, regularly attending the weekly visits with the children, and maintaining a lifestyle free of drugs and alcohol, respondent-appellant failed to comply with virtually every aspect of the court-ordered case services plan. The evidence indicates that respondent-appellant failed to complete individual therapy or parenting classes, obtain and maintain housing for her children without the assistance of others, obtain employment, follow through with the recommendations of a psychological evaluation, meet regularly with her case manager, complete her GED, demonstrate that she was capable of effectively and appropriately parenting her children during the visits, and achieve the requisite autonomy.

³ Respondent-appellant's continued lack of parenting ability was evidenced by testimony from the parenting time observer and the case manager concerning respondent-appellant's ongoing inability to effectively control and discipline her children or give them the proper level of attention during the visits, and the case manager's testimony that she could not safely parent all three children together, was not able to take care of her children, did not make any significant change, and it was not likely that she would be able to provide her children with proper care.

comply with the case services plan and did not rectify her parenting deficiencies, and it was not reasonably likely that she would rectify the deficiencies within a reasonable time.

We also find that termination under subsection (g) was appropriate because petitioner established by clear and convincing evidence that respondent-appellant, without regard to intent, failed to provide proper care or custody for her children and there is no reasonable expectation that she will be able to provide proper care and custody within a reasonable time considering the children's ages. The unsafe, unhealthy, and unfit conditions of the children's home and the physical condition of respondent-appellant's older children at the time of their removal provided clear and convincing evidence that she failed to provide proper care and custody for her children in the past. The evidence that respondent-appellant could not yet independently provide financial support or housing for her children, did not improve her parenting skills despite over one year of being offered services, and failed to comply with virtually every aspect of the case services plan establishes there is no reasonable likelihood that she will be able to provide proper care and custody for her children within a reasonable time.⁴ Accordingly, the trial court did not clearly err in finding grounds for termination under subsection (g).

Respondent-appellant next argues that the trial court clearly erred because termination of her parental rights was not in the children's best interests. We disagree. Although it is apparent from the record that respondent-appellant has a bond with the children and may reside in a more stable home environment, the evidence did not establish that termination of her parental rights was clearly not in the children's best interests. Rather, the evidence showed that visits with her children remained problematic in that the children exhibited behavioral problems during and after the visits, respondent-appellant had a history of severely neglecting her children, she made only very minimal progress towards completion of the case services plan, and she had not improved her parenting skills to enable her to appropriately and effectively parent the children. We acknowledge that respondent-appellant had recently shown some effort towards completing the case services plan by beginning a parenting class and therapy, working toward her GED, and searching for employment. However, given respondent-appellant's history of failing to make the necessary changes to regain custody of her children, we are not left with a definite and firm conviction that the trial court erred in terminating her parental rights instead of delaying permanency for the children. *In re JK*, *supra* at 209-210.

Affirmed.

/s/ Christopher M. Murray
/s/ William B. Murphy
/s/ Jane E. Markey

⁴ Note, the "[f]ailure to substantially comply with a court-ordered case service plan 'is evidence that return of the child to the parent may cause a substantial risk of harm to the child's life, physical health, or mental well being.'" *Trejo*, *supra* at 346 n 3, quoting MCR 5.973(C)(4)(b), now MCR 3.976(E)(1).