

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SARAH WANDA COX, PATRICK
ALLEN COX, LILLIAN JEWEL COX, ROGER
ALLEN COX, JR., and SCOTT DOLE COX, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELLE COX,

Respondent-Appellant,

and

ROGER COX,

Respondent.

In the Matter of SARAH WANDA COX, PATRICK
ALLEN COX, LILLIAN JEWEL COX, ROGER
ALLEN COX, JR., and SCOTT DOLE COX, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROGER COX,

Respondent-Appellant,

and

MICHELLE COX,

Respondent.

UNPUBLISHED

December 28, 2004

No. 255031

Oakland Circuit Court

Family Division

LC No. 01-652719-NA

No. 255179

Oakland Circuit Court

Family Division

LC No. 01-652719-NA

Before: Neff, P.J., and Cooper and R. S. Gribbs*, JJ.

PER CURIAM.

In these consolidated appeals, respondents Michelle and Roger Cox appeal as of right from an order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm.

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. This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Under this standard, the trial court's decision "must strike [the reviewing court] as more than just maybe or probably wrong." *In re Trejo*, *supra* at 356, quoting *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondents' children became temporary court wards because respondents were homeless and living in a pop-up trailer that was filthy and ill-smelling, and which provided only restricted access to kitchen and bathroom facilities. Although respondents subsequently acquired an adequate home in Brighton, and made modest efforts toward meeting proper standards of personal hygiene and household cleanliness, they never established a stable income and were continually falling behind in their rent. Through the leniency of their landlords respondents managed to avoid eviction by gradually paying their arrearages, but their housing situation remained precarious at best. If respondents had made progress toward stabilizing their income, termination may have been avoided. However, where respondents' employment remained sporadic and inconsistent, and where respondents showed no meaningful efforts to improve this deficiency, petitioner sufficiently showed that respondents both failed to rectify the conditions that led to adjudication, and that there was no reasonable likelihood that the conditions would be resolved within a reasonable time. Consequently, the trial court properly terminated respondents' parental rights pursuant to § 19b(3)(c)(i).

The trial court also properly terminated respondents' parental rights pursuant to § 19b(3)(g), failure to provide proper care and custody without a reasonable likelihood of becoming able to do so within a reasonable time, and § 19b(3)(j), likelihood that the children will be harmed if returned to respondents' care. Respondents' precarious housing and income problems supported termination under these subsections. Additionally, supporting termination on these grounds, however, was the wide gap between respondents' parenting abilities and the

¹ Although respondent Michelle Cox asserts that the trial court terminated her parental rights only under § 19b(3)(c)(i), the trial court's oral decision clearly references §§ 19b(3)(g) and (j) as additional grounds for termination, and all three statutory grounds are also cited in the referee's report.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

children's special needs. Four of the children suffered from developmental delays and serious behavioral problems, but respondents denied that they had any problems, and showed no motivation in learning to understand and address the children's special needs. These circumstances demonstrate a likelihood that respondents will not properly care for the children in the future, and that the children would be subjected to harm.

Respondents also claim that the trial court erred in declining to find that termination of their parental rights was not in the children's best interests. When the petitioner establishes by clear and convincing evidence that a statutory basis for termination exists, the court must order termination of parental rights unless it finds from evidence on the record that termination is clearly not in the child's best interests. MCL 712A.19b(5), *In re Trejo, supra* at 353. Here, respondents do not specifically cite evidence they believe demonstrates that termination was contrary to the children's best interests, but instead criticize the caseworkers' management of their case. Reviewing the record, we find no evidence that termination of respondents' parental rights was not in the children's best interests.

Both respondents argue that their caseworkers failed to make meaningful efforts toward reunification. Respondent Roger Cox relies on *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991), to argue that petitioner should have provided additional services to help them improve their lifestyles, instead of taking the drastic step of terminating their parental rights. Respondent Michelle Cox also argues that the entire foster care system is deeply flawed.

We note that the trial court considered factors that could have been remedied with time and additional assistance, principally respondents' difficulties in maintaining proper standards of personal and household cleanliness. Respondents made progress cleaning their home and organizing the clutter while they were working with Families First and the in-home reunification service. Although they sometimes regressed, this was largely attributable to their low intellectual capacity. But our primary reasons for affirming the termination order are respondents' lethargic attitude toward establishing a stable income and their inability to appreciate and address the children's special needs. Respondents never showed any inclination to resolve these problems, so their failure to correct these deficiencies cannot be attributed to the alleged inadequacy of services.

In re Newman is distinguishable from the instant case. In *In re Newman*, this Court determined that the respondents' parental rights should not have been terminated where they sincerely worked toward improvement, but their efforts were slowed by their mental limitations. The Court noted that termination is a drastic step, with high costs to the children, and that the trial court should have continued reunification efforts. *Id.* at 70-71. But unlike this case, there is no indication of chronic financial and housing instability in *In re Newman*, and the respondents' parenting problems mainly arose from only one of their children, who had serious problems and could not be managed even by professionals and his foster parents. *Id.* at 68-71. In the instant case, respondents could not establish a reliable income, and four of their five children presented significant behavioral problems.

Affirmed.

/s/ Janet T. Neff
/s/ Jessica R. Cooper
/s/ Roman S. Gribbs