

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAYDEN SEARLES, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
December 1, 2005

Petitioner-Appellee,

v

CRYSTAL HOPPE,

Respondent-Appellant.

No. 263333
Kalkaska Circuit Court
Family Division
LC No. 04-003682-NA

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (j), and (l). We affirm.

I. FACTS

The child in this case was born while proceedings were pending to terminate respondent's parental rights to another child, Kaitlin Searles. Based on the circumstance of the case involving Kaitlin, Jayden was removed from respondent's care on September 8th, 2004, when he was one and a half months old, and placed in foster care. On October 14th, 2004, the trial court terminated the rights of respondent to Kaitlin.

The hearing to terminate parental rights to Jayden was held on April 7th, 2005. Paula Lipinski, a child protective services worker, testified that Jayden was removed after determining that the conditions that caused the removal of Kaitlin continued to exist. Lipinski further testified that although respondent had participated in services to alleviate the risk caused by domestic violence, respondent had not benefited from those services. Respondent had also participated in a psychological evaluation wherein it was determined that the likelihood of successfully reuniting respondent with Kaitlin was poor. Throughout the case involving Kaitlin, respondent had failed to maintain stable or appropriate housing for the children.

II. STANDARD OF REVIEW

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 Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *Sours*, *supra* at 633. 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); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours*, *supra* at 633. Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613 (C); *Miller*, *supra* at 337.

III. ANALYSIS

A. Termination of Parental Rights

Contrary to respondent's contentions, ample evidence existed to support the trial court's decision. At the time Jayden was born, proceedings were ongoing regarding respondent's neglect of another child, Kaitlin. It is undisputed that respondent's parental rights to Kaitlin were terminated in October 2004. Although respondent had participated in some services in her efforts to regain custody of Kaitlin, she failed to demonstrate that she was capable of properly caring for a child. At the time respondent's parental rights to Jayden were terminated, respondent had made no real progress toward maintaining a stable home or in acquiring the necessary emotional stability to parent a child. The trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were each established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Furthermore, the trial court also terminated respondent's parental rights under § 19b(3)(l), and respondent does not challenge the trial court's decision in this regard.¹

B. Best Interests of Child

Finally, the evidence did not clearly show that termination of respondent's parental rights was against the child's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 356-357. Therefore, the trial court did not err in terminating respondent's parental rights to the child.

¹ Termination was proper under § 19b(3)(l), because it is undisputed that respondent's parental rights to Kaitlin were previously terminated as a result of proceedings under MCL 712A.2(b).

Affirmed.

/s/ Michael R. Smolenski

/s/ Bill Schuette

/s/ Stephen L. Borrello