

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KIMBERLY ANNE
HOLLIMAN, Minor.

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

UNPUBLISHED
November 21, 2006

Petitioner-Appellee,

v

GEORGE CURTIS HOLLIMAN,

Respondent-Appellant.

No. 267586
Wayne Circuit Court
Family Division
LC No. 05-445150-NA

Before: White, P.J., and Zahra and Kelly, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order that terminated his parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

In order to terminate parental rights, the trial court must first find at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). If such a finding is made, the trial court shall then order termination of parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision is reviewed for clear error. MCR 3.977(J); *In re Trejo*, *supra* at 356-357.

An original petition seeking to terminate respondent's parental rights to the minor child was authorized after Jennifer Holliman, the child's mother and respondent's wife, was found stabbed to death, and respondent was arrested as a suspect. At the initial dispositional hearing, respondent moved for a continuance, in part because a criminal hearing had not yet determined the admissibility of a statement he allegedly made to the police about Jennifer's death, and petitioner planned to use that statement as evidence in the termination trial. The trial court denied respondent's motion, on the ground that it was mandated to adjudicate termination cases in an expedited fashion, and admitted the statement, which contained a graphic confession to the murder.

On appeal, respondent challenges the trial court's reliance on respondent's statement to the police. There was no other evidence presented in support of the termination. There is no doubt that the statement by respondent to the police was the critical piece of evidence against respondent in the termination trial. In fact, the only other piece of evidence admitted was the autopsy report, which corroborated respondent's confession.¹ However, respondent fails to explain (either on appeal or at the trial level) in what way the statement was unreliable or made in an involuntary manner. He merely asserts that the trial court should have been more circumspect when weighing the statement's probative value. Without more information about the circumstances of how the statement was made, the trial court was left to decide for itself what weight to give to the statement. This Court defers to the trial court's assessment of credibility. MCR 2.613(C). A reading of that statement shows that, although respondent had allegedly ingested a large amount of pills and chemicals around the time of the murder, he was coherent and consistent when recounting Jennifer's murder in the statement made two days later. The statement also contained respondent's assertion that he had not been coerced into making the confession, and concluded with respondent's expression of remorse and concern for the children. Given the totality of the evidence provided in the statement, the trial court did not clearly err when it elected to give it a great deal of weight and credibility. Furthermore, the evidence provided by the statement clearly and convincingly established the statutory bases set forth in MCL 712A.19b(3)(g) and (j). Respondent's heinous act of murdering Jennifer (while the child and her two siblings were present in the house) demonstrated that he was capable of great brutality and, most significantly in the context of a protective proceeding, had completely failed in providing proper care or custody for the child. Next, in light of his hostile and aggressive tendencies, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time given the child's young age (she was two years old at the time of the termination trial). Lastly, respondent's inclination for violence and callousness toward others (e.g., in his statement to the police, respondent chillingly pondered the consequences of killing one of the child's siblings instead of Jennifer) placed the child at risk of future harm if returned to respondent's home.

The trial court also did not clearly err when it found that termination of respondent's parental rights was clearly not against the child's best interests. There was no evidence in the whole record regarding the relationship between the child and respondent and no indication that the child would suffer any loss in the event of termination of respondent's parental rights.

Affirmed.

/s/ Helene N. White
/s/ Brian K. Zahra
/s/ Kirsten Frank Kelly

¹ Although a personal protection order was referred to by several parties at the trial level, the lower court record does not contain any evidence of such an order.