

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TIA JADE INSKEEP, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NORA INSKEEP,

Respondent-Appellant,

and

JOSEPH C. GRIFFIN II,

Respondent.

UNPUBLISHED

February 8, 2005

No. 256896

Saginaw Circuit Court

Family Division

LC No. 03-028274-NA

Before: Markey, P.J., and Murphy and O’Connell, JJ.

PER CURIAM.

Respondent-appellant appeals by right from the trial court order terminating her parental rights to her minor child pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

The court initially assumed jurisdiction over this case when a petition was filed alleging that the minor child, then five years old, was living in an unsanitary house. There was no running water; the toilets were backed up and filled with sewage; and the house was infested with cockroaches. With the refrigerator broken, there was little food in the house. The court placed the child in foster care, but allowed respondent-appellant regular supervised visitation with her.

Respondent-appellant’s psychological evaluation indicated that she has a personality disorder involving “avoidance” and “dependency” features. The Family Independence Agency (FIA) began providing services to respondent-appellant, including counseling, training in parenting skills, and assistance in obtaining housing and employment. But, service providers testified that respondent-appellant’s cooperation was poor, because although she is an intelligent woman, she lacked the motivation to follow through with the tasks needed to improve her situation. This lack of motivation is related to the personality disorder the psychological

evaluation diagnosed. After two dispositional reviews, the FIA moved for termination of parental rights. After a permanency planning hearing, a termination hearing was scheduled. The court heard testimony from the psychologist who performed the psychological evaluation, three persons providing services on behalf of the FIA to respondent-appellant, the therapist for the minor child and respondent-appellant. After hearing all of the evidence, the court concluded that grounds existed for termination of parental rights under both MCL 712A.19b(3)(c)(i) and (g), and that termination was not clearly contrary to the child's best interests, pursuant to MCL 712A.19b(5).

In reviewing a trial court order terminating parental rights, we review conclusions of law on legal issues de novo. *In re CR*, 250 Mich App 185, 200; 646 NW2d 506 (2002). We review the trial court's findings of fact to determine whether they are clearly erroneous, a standard requiring more than that the decision be "probably wrong." *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A factual finding is clearly erroneous even if there is evidence to support it if the reviewing court forms a clear and definite conviction upon review of the entire record that a mistake has been made after giving due deference to the ability of the trial court to observe the demeanor of witnesses and to evaluate the weight and credibility of testimony. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent-appellant first argues that the trial court improperly assumed jurisdiction over the minor child. We disagree. The record clearly indicates that respondent-appellant admitted the allegations of the amended petition and which set out the grounds for jurisdiction. She responded affirmatively to detailed questioning about whether the admissions were made voluntarily and knowingly. Moreover, from the evidence before it, the trial court properly found that assumption of jurisdiction was proper under MCL 712A.2(b)(2) because the minor's "home or environment, by reason of neglect . . . [was] an unfit place for the juvenile to live in."

Respondent-appellant next argues that there were no proper reunification efforts, so the requirements of MCR 3.973(F)(3)(b) were not met.¹ Her argument is that her psychological evaluation indicated that she had a personality disorder and that she needed counseling to help her to overcome it. Nonetheless, she did not receive real psychological counseling. Instead, she received "social worker" counseling, as opposed to "therapeutic treatment." Therefore, although there were reunification efforts she claims they were not properly focused to address and correct the real problem. We disagree.

It is true that the psychological evaluation concluded that respondent-appellant suffers from a personality disorder which gives rise to her avoidance of problems, excessive dependency upon others, and difficulty in assuming responsibility for herself or others. The evaluation also stated that respondent-appellant needed counseling to address the problem; however, the psychologist did not recommend "therapeutic treatment," i.e. psychoanalysis or some similar course of treatment. Rather, the psychologist said that respondent-appellant needed "behavioral oriented counseling" so that she could find in herself the ability to assume responsibility for tasks and to complete them satisfactorily. The record indicates that this is precisely the sort of

¹ Respondent-appellant does not cite the rule, but it appears from her argument that she is relying upon it.

counseling that respondent-appellant received; therefore, the trial court did not commit clear error in finding the reunification efforts were properly focused.²

Respondent-appellant next argues that the trial court erred in finding that grounds for termination existed under MCL 712A.19b(3)(c)(i) and (g). We find it unnecessary to address whether the requirements of MCL 712A.19b(3)(c)(i) were satisfied because the trial court clearly was correct in finding that grounds existed for termination under MCL 712A.19b(3)(g). This statutory provision states that a “court may terminate a parent’s parental rights to a child if the court finds by clear and convincing evidence” that “[t]he parent, *without regard to intent*, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” (emphasis added) Respondent-appellant presented a great deal of evidence and makes a strong argument that she did not intend to provide inadequate proper care or custody, and no one seems to have argued otherwise. That, however, is not the issue. There was strong evidence that regardless of her intent, respondent-appellant did not provide proper care or custody, and that she was unlikely to be able to provide it within a reasonable time considering the minor child’s age (six at the time of the termination hearing). Therefore, we find that the trial court did not commit clear error on this issue.

Finally, respondent-appellant argues that the trial court erred in not finding termination of parental rights to be contrary to the minor child’s best interests under MCL 712A.19b(5). There was certainly evidence supporting the trial court’s conclusion that termination was not clearly contrary to the child’s best interests. The child’s therapist presented evidence and the FIA foster care worker testified that the child had been having a very difficult time, behaviorally and academically, before she was placed in foster care. After she was placed in foster care, they testified that she did much better in both respects. The same witnesses also testified that the child showed little anxiety or grief at the prospect of losing her mother from the termination of parental rights. Therefore, the trial court did not commit clear error on this issue.

We affirm.

/s/ Jane E. Markey

/s/ William B. Murphy

/s/ Peter D. O’Connell

² We note, incidentally, that this issue was never squarely presented to the trial court.