

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KENNETH CARL MILLER,
CHEYENNE CAPRI SMITH, CHRISTOPHER
JACOB SMITH, and SARAH ANNE
ELIZABETH SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RENA MAE SMITH,

Respondent-Appellant,

and

CARL FRED SMITH,

Respondent.

In the Matter of KENNETH CARL MILLER,
CHEYENNE CAPRI SMITH, CHRISTOPHER
JACOB SMITH, and SARAH ANNE ELIZABETH
SMITH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CARL FRED SMITH,

Respondent-Appellant,

and

RENA MAE SMITH,

UNPUBLISHED
February 22, 2005

No. 256077
Wayne Circuit Court
Family Division
LC No. 02-410162

No. 256219
Wayne Circuit Court
Family Division
LC No. 02-410162

Respondent.

Before: Gage, P.J., and Meter and Fort Hood, JJ.

MEMORANDUM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The principal condition leading to adjudication was two of the minor children's sexual abuse of one another, which had first begun three years prior to adjudication. The children had been allowed to witness the parents' sexual activity as well as watch their pornographic movies. Petitioner clearly established that sexual abuse occurred and that respondent parents failed to prevent it where they had an opportunity to do so.

In over a year of therapy, respondents made no progress in taking responsibility for the sexual abuse or in developing empathy for the children. The reason that respondent parents did not prevent the abuse from reoccurring initially was that they minimized the seriousness of the sexual behavior and the effect it had on both children. Even after lengthy therapy, two therapists and the foster care supervisor agreed that neither respondent parent had taken responsibility for the behavior or had developed empathy for the children. Their plan to protect the children from future abuse was the use of the same techniques that had previously failed. Petitioner established that the sexual abuse would likely reoccur. Therefore, the trial court did not clearly err in determining that petitioner established the statutory grounds for termination.

Further, the evidence did not show that termination of respondents' parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. Although respondents completed most of their treatment plan, the children were still in danger of further sexual abuse. Thus, the trial court did not clearly err in terminating respondents' parental rights.

Affirmed.

/s/ Hilda R. Gage
/s/ Patrick M. Meter
/s/ Karen M. Fort Hood