

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JESSICA HEATON, Minor.

UNPUBLISHED
June 11, 1996

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DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

No. 183859
LC No. 93-000438-NA

FREDERICK A. SHELDON,

Respondent-Appellant.

And

KERRI HEATON,

Respondent.

Before: Reilly, P.J., and Michael Kelly, and C.L. Bosman,* JJ.

PER CURIAM.

Respondent Frederick Sheldon appeals as of right the February 7, 1995 order of the Kent County Probate Court terminating his parental rights to Jesse Heaton (born March 18, 1993) pursuant to MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). The court also terminated the parental rights of the mother, Kerri Heaton, following an uncontested hearing on December 21, 1994. She is not a party to this appeal. We affirm.

Although petitioner asserted several statutory grounds for termination, the court relied on MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g), which states:

The 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 age of the child.

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

We review the court's findings under the clearly erroneous standard. *In re Vasquez*, 199 Mich App 44, 51; 500 NW2d 757 (1993). A finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id.* Once at least one of the statutory grounds is demonstrated by clear and convincing evidence, the decision to terminate is discretionary, and we review for an abuse of discretion. *Id.* at 52-53.

Respondent has an extensive criminal record, including convictions since September, 1983 for attempted unarmed robbery, attempted larceny of a motor vehicle, indecent exposure, attempted burglary, resisting and obstructing, illegal entry, breaking and entering a motor vehicle and prison escape. He was incarcerated at the time the child was born and at the time of the termination hearing in December, 1994. The earliest possible parole date was June 8, 1995. This Court is not left with a definite and firm conviction that a mistake has been made in the court's finding that the statutory basis for termination was established. We are also not persuaded that the court abused its discretion in its decision to terminate respondent's rights.

Affirmed.

/s/ Maureen Pulte Reilly
/s/ Michael J. Kelly
/s/ Calvin L. Bosman