

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of JUSTIN WASHINGTON,  
Minor.

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UNPUBLISHED  
August 20, 1996

DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

No. 183944  
LC No. 00001761

CAROL WASHINGTON,

Respondent-Appellant.

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Before: Bandstra, P.J., and Markman and M. D. Schwartz,\* JJ.

PER CURIAM.

Respondent appeals by right a 1995 order terminating her parental rights to Justin Washington (d/o/b 12/8/90) pursuant to MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) (conditions that led to adjudication continue to exist); MCL 712A.19b(3)(c)(ii); MSA 27.3178(598.19b)(3)(c)(ii) (conditions continue to exist after recommendations to rectify them); and MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g) (failure to provide proper care or custody). The parental rights of Justin's father were not addressed because he died prior to Justin's birth. We affirm.

Respondent contends that there was insufficient evidence to support the termination of her parental rights.

In an appeal from an order terminating parental rights, the findings of fact are reviewed for clear error. A finding of fact is clearly erroneous if, although there is evidence to

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

support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. Once the probate court finds at least one ground for termination by clear and convincing evidence, the decision to terminate is discretionary, and the best interests of the children are considered. [Citations omitted.] [In Re Vasquez, 199 Mich App 44, 51-52; 501 NW2d 231 (1993).]

Here, the probate court terminated respondent's parental rights pursuant to the following provisions of MCL 712A.19b; MSA 27.3178(598.19b):

(3) The court may terminate the parental rights of a parent to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

\* \* \*

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

(ii) Other conditions exist that cause the child to come within the jurisdiction of the court, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice, a hearing, and been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

(g) 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.

Testimony indicated that respondent failed to provide proper care for Justin. Justin is a medically fragile child who suffers from Wiskott-Aldrich Syndrome (a blood disorder that affects the immune system, treatment of which included a bone marrow transplant) and cancer. Respondent has been diagnosed with manic depression and schizoid disorder. She is able to function appropriately when she takes Lithium and two forms of Haldol. During the pendency of the case, there were occasions on which she failed to take her medication. Further, she has a history of alcohol and drug abuse and there were substance abuse relapses during the pendency of the case.

Testimony indicated specific instances of inappropriate behavior by respondent. On one occasion, she visited Justin in the hospital while inebriated and acted agitated to the point that the hospital staff was concerned for Justin's safety. On another occasion, while being transported with Justin to a medical appointment, respondent physically assaulted a Department of Social Services (DSS) employee, stole a DSS vehicle and stopped only when forced to do so by a police roadblock. In addition, a DSS worker testified that respondent engaged in inappropriate physical contact with Justin. Respondent attempted on one occasion to "french kiss" him and physically restrained him when he protested her attempts to show him such attention. There were allegations of sexual abuse while he was in respondent's care that resulted in the supervision of respondent's visitation with Justin. Evidence was presented that Justin became anxious and distressed when respondent was present or mentioned.

The evidence further indicated that respondent genuinely loved Justin and that she attended classes and counselling as recommended by DSS. However, it also demonstrated clearly that she did not benefit from these services. She was twice involved in substance abuse counselling but her prognosis was poor because she did not understand how her substance abuse was a problem and how it interacted with medication prescribed for her mental conditions. Respondent failed to incorporate lessons from parenting classes into her dealings with Justin. The DSS social worker testified that respondent appeared to place her own needs above Justin's and that respondent told her that she needed Justin to come home to "take care of [her]." The DSS social worker concluded that respondent could not properly care for Justin and that it would not be in his best interests to remain with her.

This evidence provided sufficient evidence that respondent was not able to provide adequate care for Justin and would not be able to do so within a reasonable time period. The present case is readily distinguishable from *In Re Hulbert*, 186 Mich App 600, 605; 465 NW2d 36 (1990), in which this Court reversed a termination order based on "minimal evidence of past neglect" and "speculative opinions" that the respondents' mental conditions "might" result in neglect or abuse. Here, there is substantial evidence of past inadequate care, respondent's mental condition and her continuing difficulty in taking medications and avoiding substance abuse. The child at issue is medically fragile and requires special care. Therefore, we are not left with a definite and firm conviction that a mistake has been made. Rather, there is clear and convincing evidence sufficient to warrant termination. We find no abuse of discretion in the probate court's determination that it was in Justin's best interests to terminate respondent's parental rights.

Respondent's other claims with respect to the termination proceedings also fail. She contends that the DSS social worker was inexperienced and inept in dealing with respondent. However, this court must defer to the factfinder's assessment of the credibility of witnesses who appear before it. *In Re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent also contends that the trial court improperly considered evidence relating to respondent's relationship with her other son. However, the manner in which "a parent treats one child is certainly probative of how that parent may treat other children." *In Re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995). In any event, the probate

court's opinion from the bench does not indicate that it relied in any way on evidence relating to respondent's other child in terminating her parental rights regarding Justin.

For these reasons, we affirm the probate court's order terminating respondent's parental rights to Justin.

Affirmed.

/s/ Richard A. Bandstra

/s/ Stephen J. Markman

/s/ Michael D. Schwartz