

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of VANESSA SUE CAVANAUGH,
MICHAEL JOSEPH CAVANAUGH, PATRICK
THOMAS CAVANAUGH, SUSAN MARIE
CAVANAUGH and JENENE RANAE
CAVANAUGH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEITH M. CAVANAUGH,

Respondent-Appellant,

and

JULIE KAY CAVANAUGH,

Respondent.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JULIE KAY CAVANAUGH,

Respondent-Appellant,

and

UNPUBLISHED
November 4, 1997

No. 199845
Wayne Juvenile Court
LC No. 94-318498

No. 200105
Wayne Juvenile Court
LC No. 94-318498

KEITH MICHAEL CAVANAUGH,

Respondent.

Before: Holbrook, Jr., P.J., and Michael J. Kelly and Gribbs, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the juvenile court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g); MSA 27.3178(598.19b)(3)(c)(i) and (g). We affirm.

Respondent-father argues that clear and convincing evidence was not presented to justify termination of his rights. This Court reviews a probate court's findings of fact in a parental termination case under the clearly erroneous standard. A finding of fact is clearly erroneous when the reviewing court has a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); MCR 5.974(I). Deference must be accorded to the probate court's assessment of the credibility of the witnesses who appear before it. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

The burden of proof is on the petitioner to establish a statutory ground for termination by clear and convincing evidence. After petitioner meets its burden, the burden shifts to the respondent to come forward with evidence that termination is clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Absent any such evidence, termination of the parent's rights is mandatory. *In re Hall-Smith*, 222 Mich App 470, 471-473; 564 NW2d 156 (1997). Here, clear and convincing evidence was presented to support termination of respondent-father's rights under § 3(g) based upon the sexual abuse of the children and respondent-father's failure to complete therapy to address that issue. However, we agree with respondent-father that termination of his rights was not appropriate under § 3(c)(i). The conditions that led the court to assume jurisdiction had generally been rectified by respondents, to the degree possible under the circumstances, when petitioner focused its attention on addressing the problems that appeared after the children were placed under the court's jurisdiction. While the juvenile court erred in citing § 3(c)(i) as a ground for terminating respondent-father's rights, the court's order terminating his rights need not be overturned since § 3(g) provided a proper basis for termination. See MCL 712A.19b(3); MSA 27.3178(598.19b)(3) [termination is appropriate on a showing that *one* statutory basis has been satisfied]. Furthermore, petitioner's witnesses possessed sufficient personal knowledge of this family to satisfy the standard of clear and convincing evidence.

Respondent-mother argues that the juvenile court erred in terminating her rights where she was not offered family therapy. While one therapist believed that family therapy might have made a difference in respondent-mother's case if it had been offered early on, we believe that respondent-mother was offered appropriate services by petitioner to address her parenting deficiencies. In light of evidence of the children's sexual abuse that surfaced after the court

assumed jurisdiction, family therapy early on in the case most likely would have been detrimental to the children and of little help to respondent-mother in addressing her problems.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Michael J. Kelly

/s/ Roman S. Gibbs