

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

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In the Matter of C.T.T.T., J.B.T.H., J.D.H., C.L.H.,  
Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellee,

UNPUBLISHED  
February 21, 2003

v

No. 239403  
Wayne Circuit Court  
Family Division  
LC No. 93-312893

JERRY BAILEY HALL, a/k/a JERRY B. HALL  
JR., and JERRY B. HALL,

Respondent-Appellant,

and

TAMIEKA CHRISTINA TAYLOR,

Respondent.

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Before: Whitbeck, C.J., and Griffin and Owens, JJ.

PER CURIAM.

Respondent-appellant Jerry Hall appeals as of right from the family court's order terminating his parental rights to his three minor children, JBT-H, JDH, and CLH, under MCL 712A.19b(3)(c)(i) and (g). The family court also terminated Tamiaka Taylor's parental rights to all four minor children, but she does not appeal. We affirm.

I. Basic Facts And Procedural History

The Family Independence Agency (FIA) intervened in this case in April 2000 after toddler CLH sustained serious, second-degree burns from being immersed in hot water, which hospital personnel considered consistent with abuse. As foster care workers later learned, the children had serious developmental problems that went hand-in-hand with their aggression, fear, inappropriate sexual behavior, and other problems. The FIA's records revealed that Taylor and her own mother had an extensive history with the FIA. In fact, Taylor had already lost her parental rights to other children. Subsequent investigations into the family's living arrangements

revealed a dramatically overcrowded house that was dirty, lacked basic necessities, and may have had a dangerous pit bull. The home also included domestic violence, as well as rampant drug abuse and possibly prostitution. Taylor and the children also experienced intermittent homelessness.

Hall, who had a mild intellectual deficit or mental retardation, had back and leg problems, and so was receiving social security income for his disability. While Hall had expressed interest in his children, as well as enjoyment from the children, in 1999 psychologists had arrived at different prognoses for his ability to be a good parent. Dr. Samuel Goldstein thought that Hall “could become [a] reasonably adequate parent,” while Dr. Joseph Zambo thought referring Hall to classes to improve his parenting skills was “questionable” because of his “apparent limited intellectual functioning.” After the family court made the children temporary court wards, Hall underwent another evaluation. This time Dr. Kai Anderson noted the numerous difficulties Hall faced, including his fights with Taylor, his poor physical health, and his inability to understand why the FIA did not want Taylor’s mother to care for Hall’s children because she had a history of abuse. Though Hall interacted appropriately with his children during visitation, Dr. Anderson concluded that Hall had “limited insight,” “impaired judgment,” and a poor outlook for being able to acquire the necessary skills to be a good parent. Dr. Anderson recommended that every member of the Hall-Taylor family receive ongoing and extensive therapy in a number of different areas to help the parents learn to be better parents and to address the children’s problems.

By March 2001, almost a year after the FIA intervened in this case, Hall had a spotty record with attending visitation and the services offered to him. He also showed little ability to interact with the children and give them structure during visitation. Particularly troubling was his statement to the case worker that he found it a “waste of gas” to drive to visitation if not all of his children were going to be there, and so he did not want visitation unless all the children were available to attend. By April 2001, Hall had obtained a new home, but it was “unfit” for the children according to a case worker.

On December 7, 2001, the family court issued a lengthy written opinion terminating Hall’s and Taylor’s parental rights under MCL 712A.19b(3)(c)(i) and (g). The family court reiterated the history of the case and found that Taylor’s parental rights to three of the children’s siblings had been terminated in 1994 after one of the children had been burned by a curling iron. The family court concluded that CLH suffered burns to both feet at her maternal grandmother’s home when Taylor left the child in the bathtub, and that the maternal grandmother had a twenty-one-year history with protective services, including serious abuse to two children and the death of another from a fall from a second story window. The family court noted that when the children came to its attention, Hall and Taylor were actually parenting six children because two of Hall’s children from his marriage were living with them and that Hall was maintaining a relationship with both women at the same time. Hall’s other children also had been put in out-of-home placements.

The family court also noted that during the Clinic for Child Study evaluation in August 2000, Hall admitted that: he saw no reason why the maternal grandmother could not care for the children; there was conflict in the maternal grandmother’s home when he lived there with Taylor; he left the maternal grandmother’s home after a disagreement with Taylor that resulted in the

destruction of a television; and Hall falsely told workers that Taylor was working as a prostitute because they were arguing about money. Professionals conducting the study concluded that Hall and Taylor had impaired judgment, limited intellectual functioning, inadequate decision making skills, and a lack of insight. As a result, they needed extensive individual psychotherapy and parenting classes to address numerous issues, including poor judgment, domestic violence, the children's developmental delays, and the children's other problems. The family court noted the lack of suitable housing for the children, and traced Hall's inconsistent history of attending various services. The family court also determined that Hall and Taylor had no ability to parent the children, saying:

Not all the therapy reports were received, but the parents did not bring forward any therapist report or testimony that would indicate an ability to parent the children in the near future. The parents failed to produce information on therapy they received, if any, which leaves the court with the assumption that it would not be favorable evidence on their behalf. The court heard no testimony from the parents that they were in long-term, in-depth therapy to address the issues identified in the evaluation at the Clinic [for Child Study]. The parents, by the terms of the agreement of the parties, knew that time was short; a six month term was set. The children's therapist tried to work with the parents to see the interaction and the ability of the parents to put into effect what was or should have been learned in parenting classes and give advice or reinforce proper parenting skills. The parents were not cooperative, even to the extent that [respondent] turned his back on the therapist and said he was not to cooperate.

The family court concluded that terminating both parent's rights was in the children's best interests, and entered an order terminating Hall's and Taylor's parental rights to the children. In the sole issue he presents in this appeal, Hall argues that the trial court lacked the clear and convincing evidence necessary to terminate his parental rights and that termination was not in the children's best interests.

## II. Termination

### A. Standard Of Review

Appellate courts review a family court's decision to terminate parental rights for clear error.<sup>1</sup>

### B. Clear And Convincing Evidence

The family court must find clear and convincing evidence on the record proving that at least one statutory ground for termination exists before it terminates parental rights.<sup>2</sup> Once there is clear and convincing evidence of at least one statutory ground for termination, the family court

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<sup>1</sup> *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 5.974(I).

<sup>2</sup> MCL 712A.19b(3); see *In re IEM*, 233 Mich App 438, 450-451; 592 NW2d 751 (1999).

“must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests.”<sup>3</sup>

Hall contends that the family court clearly erred in finding sufficient evidence that the conditions leading to the adjudication persisted and could not be rectified within a reasonable amount of time considering the age of his children.<sup>4</sup> According to Hall, the conditions leading to the adjudication all related to Taylor, her mother, and the burns to his child. He claims that he had no connection to these problems. In any event, he asserts that he cooperated fully with the FIA and case workers, meeting the requirements of his parent-agency agreement.

Though the child’s burn did instigate FIA’s involvement in this case, Hall’s failure to provide the children with proper care and custody was one of the conditions that led to adjudication. When the case came to the FIA, the children were living with Taylor, who had lost her parental rights to three older children because of abuse and neglect. Hall also allowed Taylor’s mother, the children’s maternal grandmother, to care for the children even though the maternal grandmother had an extensive history with the FIA. In fact, the maternal grandmother’s home provided an unhealthy environment for the children, and when they did not live with her, the children had to stay in a shelter. Hall knew that these were his children, he was aware of the horrible circumstances in which the children were living, and he simply did nothing to help them.

Even after this case had been pending for more than a year, Hall had failed to arrange for housing that was suitable for the children. There was ample evidence to support the family court’s conclusion that the family home “has structural issues [i.e., the absence of porch railings] that would make it unsafe for children” and that these issues had existed for some time. Further, while the case worker testified that the \$512 monthly social security benefits Hall received constituted an adequate income, nothing in the record indicated that this income, alone, would have been enough to provide appropriate food, shelter, clothing, medical care, or any of the many things children need.

In order to determine whether Hall could care for the children properly, the family court ordered Hall to comply with the parent-agency agreement by attending family visits, obtaining housing, maintaining an income, attending therapy, and completing parenting classes, among other things. Though Hall claims that he complied with these requirements, the record reveals that he made only sporadic efforts to access these services and to improve his skills. To the contrary, the record indicates that he failed to gain a true understanding of the parenting issues the parent-agency agreement was intended to address or to improve in related areas. For example, Hall did not attend all family visits and was “extremely late” for others he attended, expressing a troubling interest in only attending visitation if it involved all the children. Some of the visits were chaotic and inappropriate.

More importantly, however, Hall failed to demonstrate that he could care properly for the children after therapy and parenting classes. Several psychologists and therapists examined Hall.

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<sup>3</sup> *Trejo, supra* at 354; MCL 712A.19b(5).

<sup>4</sup> See MCL 712A.19b(c)(i).

Despite acknowledging that Hall loved the children, expressed a desire to provide them with proper care, and did not intend to harm them, almost every evaluator questioned respondent's ability to be an adequate parent. This failure to improve his parenting skills, insight, and judgment made it unlikely that Hall would benefit from continued therapy within a reasonable time given the children's ages. As the family court noted, there was no evidence establishing that "the parents were in long-term, in-depth therapy to address the issues identified," and neither parent brought "forward any therapist report or testimony that would indicate an ability to parent the children in the near future." Accordingly, the family court did not clearly err in finding the clear and convincing evidence to terminate Hall's parental rights pursuant to MCL 712A.19b(3)(c)(i). Further, this same evidence supported termination under MCL 712A.19b(3)(g).

### C. Best Interests

MCL 712A.19b(5) states that a family court "shall order termination of parental rights" if it finds clear and convincing evidence to terminate. In other words, termination is mandatory once the court finds evidence of at least one statutory ground to terminate parental rights.<sup>5</sup> Only if the family court finds evidence on the record as a whole that termination is *not* in the child's best interests can it refuse to terminate parental rights.<sup>6</sup> The record in this case clearly establishes that Hall loved his children, that he had a bond with the children, and that he desired to care for them. Nevertheless, Hall's children have significant needs related to their delayed development. Given his failure to improve his parenting skills and judgment, the record supports the family court's determination that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ William C. Whitbeck  
/s/ Richard Allen Griffin  
/s/ Donald S. Owens

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<sup>5</sup> See *In re IEM*, *supra* at 450-451.

<sup>6</sup> See *Trejo*, *supra* at 353-354.