

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALYSSA JORDAN FREESLAND,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KIMBERLY RUBY FREESLAND,

Respondent-Appellant,

and

RONALD BUZAR,

Respondent.

UNPUBLISHED
September 9, 2003

No. 244161
Wayne Circuit Court
Family Division
LC No. 97-351996

Before: O'Connell, P.J., and Jansen and Fort Hood, JJ.

PER CURIAM.

Respondent-appellant Kimberly Ruby Freesland appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (i), and (j). We affirm.

This Court reviews a decision to terminate parental rights under the clearly erroneous standard. MCR 5.974(I), *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours, supra*. Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent-appellant had an extensive history with petitioner, Family Independence Agency and her parental rights to three older children were terminated for drug use and abandoning the children. There was conflicting evidence presented in the proceedings for this

child regarding whether respondent-appellant had successfully addressed her problem with drug use and her positive drug screens were the result of prescription drugs taken to ease her seizure disorder or whether she was still using drugs. Nonetheless, in reviewing this evidence, we give regard to the lower court's special opportunity to assess the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337. The lower court did not clearly err in finding that § 19b(3)(i) and (j) were established by clear and convincing evidence. MCR 3.974(J); *Miller, supra* at 337. Although it is not clear that § 19b(3)(c)(i) and (g) were established, any error is harmless given that other statutory grounds for termination of respondent-appellant's parental rights existed. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Respondent-appellant next contends that the court erred as the parental termination was not clearly in the best interest of the child. Upon a review of the entire record, although there is evidence to support respondent-appellant's position, we are not left with a definite and firm conviction that a mistake has been made in finding that the termination was clearly in the child's best interest. See MCL 712.A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 5.974(I); *Sours, supra* at 633. The lower court found that respondent-appellant was deceptive, has not remained drug free, and has not done other things expected for the child to be returned to her home, such as her failure to complete parenting classes. In particular, the lower court noted that the most important factor was that respondent-appellant had not completed a drug treatment program and had not been drug free. Although there is evidence to support respondent-appellant had given the child some good care, a decision of the trial court must be more than maybe or probably wrong. See *Sours, supra*. There was evidence to support that lower court's termination of parental rights, namely, the positive drug test. Giving regard to the lower court's opportunity to assess witness credibility, we find that the trial court did not clearly err in finding that terminating respondent-appellant's parental rights was in the best interest of the child. See MCL 7.12.A.19b (5); *Trejo, supra*.

Affirmed.

/s/ Peter D. O'Connell
/s/ Kathleen Jansen
/s/ Karen M. Fort Hood