

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M.S.P., M.B.P., and X.D.P.,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEITH ANTHONY WEAVER,

Respondent-Appellant,

and

DEBORAH LOUISE POWERS,

Respondent.

In the Matter of X.D.P., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DEBORAH POWERS,

Respondent-Appellant,

and

KEITH ANTHONY WEAVER,

Respondent.

UNPUBLISHED
January 21, 2003

No. 240471
Wayne Circuit Court
Family Division
LC No. 96-345222

No. 240511
Wayne Circuit Court
Family Division
LC No. 96-345222

Before: Jansen, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

In this consolidated appeal, respondents Keith Weaver and Deborah Powers appeal as of right from the trial court orders terminating the parental rights of respondent-father to the minor children, MSP, MBP, and XDP, under MCL 712A.19b(3)(c)(i), and the parental rights of respondent-mother to the minor child, XDP, under the same statutory subsection.¹

On appeal, respondents both argue that the trial court erred in determining that clear and convincing evidence established a statutory ground for termination of respondents' parental rights. We disagree.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court, considering all the evidence, is left with a definite and firm conviction that a mistake has been made. *Id.* Regard is given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it in the proceedings. *Id.*

Here, respondents' parental rights to the children were terminated pursuant to MCL 712A.19b(3)(c)(i), which provides:

(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 child's age.

This child protective proceeding is a continuation of the prior proceeding in which MSP and MBP and several of their siblings came into care. Evidence admitted at the prior hearings is properly considered at subsequent hearings, *In re King*, 186 Mich App 458, 465; 465 NW2d 1 (1990); *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973), and the trial court took judicial notice of the entire file at the outset of the termination hearing.

The primary conditions causing those two children to come into care in 1997 were their positive tests for drugs at birth in 1993 and 1994. Likewise, XDP was born testing positive for cocaine in August 1999, a year after respondent-mother's parental rights had been terminated to

¹ Respondent-mother's parental rights to MSP and MBP already had been terminated.

some of his siblings, and he was taken into temporary custody at birth. In the previous and current proceedings, both respondents were required to provide regular random drug screens to demonstrate that they were drug- and alcohol-free. Respondents' compliance with the random drug screens was sporadic. Although each submitted to approximately half of the requested screens in the years 2000 and 2001, many of those screens were submitted on the wrong days, thus defeating the purpose of random testing. Further, respondents failed to attend some visitations with XDP, even after the place of visitation was relocated for respondents' convenience, and, despite notification of at least some medical appointments, respondents failed to attend most of those medical appointments. The trial court had ordered respondents to participate in the medical treatment that XDP received while a temporary ward of the court. Moreover, respondents' requests for bus tickets were accommodated, and each respondent was provided with fifty to one hundred bus tickets to enable them to attend the drugs screens and other requirements of their treatment plans, but they consistently failed to do so. Although respondents complied with some of the requirements of the parent-agency agreement, respondents failed to rectify issues of substance abuse and further failed to meet other requirements of the parent-agency agreement. Thus, the trial court did not clearly err in finding that respondents had failed to rectify the conditions causing the children to come into care and in determining that there was no reasonable likelihood that they would rectify them within a reasonable time.

To the extent that respondent father asserts that termination of his parental rights was not in the best interests of the children, MCL 712A.19b(5), we disagree. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights unless the court finds from evidence on the whole record that termination is clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the children's best interests is reviewed for clear error. *Id.* at 356-357.

Considering the lengthy time the older children had been separated from him since they became court wards in 1997, his history of failing to attend visitation with them, and the evidence of respondent-father's failure to comply with random drug screens and failure to attend medical appointments for XDP, we find no clear error in the trial court's determination that termination of respondent-father's parental rights was not contrary to the children's best interests.²

Affirmed.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Hilda R. Gage

² Although not challenged on appeal, we note that the trial court did not clearly err in likewise determining that termination of respondent-mother's parental rights was in the best interests of XDP.