

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYRELL HUNT, MELIA PATTON,
DARNELL POOLE, MONTRELL PATTON, and
CHRISTOPHER PATTON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LISA PATTON,

Respondent-Appellant,

and

ROBERT POOLE, DECARLO SHELL, and TY
CHRISTOPHER HUNT,

Respondents.

UNPUBLISHED

April 14, 2000

No. 219494

Jackson Circuit Court

Family Division

LC No. 95-018568-NA

In the Matter of DARNELL POOLE and
CHRISTOPHER PATTON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT POOLE,

Respondent-Appellant,

No. 219720

Jackson Circuit Court

LC No. 95-018568-NA

and

LISA POOLE, DECARLO SHELL, and TY
CHRISTOPHER HUNT,

Respondents.

Before: Fitzgerald, P.J., and Saad and Whitbeck, JJ.

PER CURIAM.

In Docket No. 219494, respondent Patton appeals as of right from the family court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), and (j). In Docket No. 219720, respondent Poole appeals as of right from the same family court order terminating his parental rights to his children, Darnell Poole and Christopher Patton, under MCL 712A.19b(3)(a)(ii), (c)(i), (g), (h), and (j); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i), (g), (h), and (j). We affirm.

I

In Docket No. 219494, the family court did not clearly err in finding that §§ 19b(3)(c)(i), (g), and (j) were each established by clear and convincing evidence with respect to respondent Patton. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Patton repeatedly endangered and neglected her very young children by leaving them with an unsuitable, immature babysitter for lengthy periods and overnight. Further, respondent Patton failed to show that termination of her parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Thus, the family court did not err in terminating respondent Patton's parental rights to the children.

II

In Docket No. 219720, father respondent Poole contends that there was not clear and convincing evidence to support termination of his parental rights. He maintains that before he went to prison, he regularly visited his children, took care of them on weekends and overnight, and regularly purchased items for them. He also avers that after becoming incarcerated, he continued to call and write to his children from prison. Furthermore, he alleges that when he learned of respondent Patton's neglect of the children, he attempted to arrange for their custody with relatives and offered to pay financial support.

Nonetheless, we conclude that the petitioner established by clear and convincing evidence to establish at least some of the statutory grounds cited: MCL 712A.19b(3)(a)(ii) (desertion for 91 or more days without seeking custody); (c)(i) (conditions leading to adjudication continue to exist without

likelihood of rectification within reasonable time); (g) (failure to provide proper care or custody); (h) (parent incarcerated for at least two years without providing for proper care or custody); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i), (g), and (h). Respondent Patton testified that Poole sometimes bought items the children needed before he went to prison, but never provided regular support. Poole did not offer testimony regarding his contribution to the children's support before his incarceration. Poole admitted that he had not sent any of his prison wages to help support the children, but he stated that he was willing to start. This testimony supports the trial court's finding that Poole has not supported his children.

Moreover, Poole's belated efforts to suggest custody with his relatives were insufficient to refute these statutory grounds. Poole did not offer his relatives' help until after the proceedings against him and Patton began. Moreover, he provided no evidence that his relatives were actually willing and able to take custody of the children. See *In re Systma*, 197 Mich App 453, 456-457; 495 NW2d 804 (1992).

Finally, respondent Poole failed to show that termination of his parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, *supra* at 472-473. Thus, the family court did not err in terminating his parental rights to Darnell and Christopher.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Henry William Saad
/s/ William C. Whitbeck