

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of RANDALE LASHAWN REX,
JR., and QUINTAE NAJEE REX, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
May 11, 2006

Petitioner-Appellee,

v

QIANA L. FRANK,

Respondent-Appellant.

No. 262434
Oakland Circuit Court
Family Division
LC No. 98-616103-NA

Before: Schuette, P.J., and Bandstra and Cooper, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(j) and (l). We affirm.

Respondent argues that the trial court erred in finding that a statutory ground for termination was properly established.¹ We disagree. A statutory ground for termination must be proven by clear and convincing evidence. MCR 3.977(F)(1)(b) and (G)(3); *In re Miller*, 433 Mich 331, 344-345; 445 NW2d 161 (1989). The trial court's findings of fact are reviewed for clear error and may be set aside only if, although there may be evidence to support them, the reviewing court is left with a definite and firm conviction that a mistake has been made. MCR 3.977(J); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Due regard is to be given to the trial court's special opportunity to judge the credibility of witnesses. *Miller, supra* at 337.

The evidence established that respondent's parental rights to two other children were previously terminated in 1999, and it is undisputed that the prior proceeding was instituted under MCL 712A.2(b). Therefore, § 19b(3)(l) was proven by clear and convincing evidence. Because

¹ In addition to discussing §§ 19b(3)(j) and (l), respondent also discusses whether termination of her parental rights was warranted under §§ 19b(3)(b)(i), (c)(i), (g), (i), and (k)(iii) and (iv). Because the record discloses that the trial court did not rely on any of these latter statutory subsections as a basis for termination, they need not be considered.

only a single statutory ground for termination is necessary, we need not address whether termination was also warranted under § 19b(3)(j). *In re SD*, 236 Mich App 240, 247; 599 NW2d 772 (1999).

Respondent also challenges the trial court's decision concerning the children's best interests. Once a statutory ground for termination is established, the trial court "shall order termination of parental rights . . . unless the court finds that termination . . . is clearly not in the child's best interests." MCL 712A.19b(5); MCR 3.977(F)(1)(b) and (G)(3). That determination is to be made upon the evidence on the whole record, and is reviewed for clear error. *In re Trejo Minors*, 462 Mich 341, 353-354, 356; 612 NW2d 407 (2000).

In this case, everyone agreed that the children loved respondent and that she loved them. However, the psychologist, whom the trial court found to be a credible witness, testified that the children do not view respondent as their primary caregiver and were not overly upset at being separated from her. The psychologist believed that while the children would be sad and experience feelings of loss and depression if respondent's parental rights were terminated, these feelings could be overcome by counseling and increased feelings of stability and security.

The evidence showed that respondent was evicted for failing to pay her rent. She relied on relatives to provide her with housing and child care and continued to leave the children in their grandmother's care and not return for days. She also continued to abuse alcohol and use marijuana, and even the children agreed that her substance abuse was a problem.

More importantly, respondent failed to recognize and address her problems. She refused to recognize that she was at fault for causing her incarceration and the children's placement in foster care. She denied having a substance abuse problem. She refused to admit that her embezzlement and alcohol abuse led to the loss of her job, car, freedom, and children. According to the psychologist, respondent was manipulative and remorseless, selfish, and had little insight of the impact of her behavior, particularly her substance abuse, on her children. She was unable or unwilling to place her children's needs ahead of her own, and was at high risk of relapsing into substance abuse and criminality.

On this record, the evidence failed to show that termination of respondent's parental rights was clearly not in the children's best interests. Therefore, the trial court did not err in terminating respondent's parental rights to the children.

We affirm.

/s/ Bill Schuette
/s/ Richard A. Bandstra
/s/ Jessica R. Cooper