

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of JORDAN DREYER, Minor

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DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

RICK LAMONT,

Respondent-Appellant.

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UNPUBLISHED

April 15, 1997

No. 194824

Manistee Probate Court

LC No. 94-001061-NA

Before: Taylor, P.J., and Hood and Gribbs, JJ.

PER CURIAM.

Respondent appeals from an order of the probate court terminating his parental rights to the minor child after respondent signed a voluntary release. We affirm.

First, respondent argues that the probate court abused its discretion by not granting him a rehearing after telling respondent that he had a right to a rehearing. Although we agree that the probate court erred by telling respondent that he had a right to a rehearing, the error was harmless in this case and we find no abuse of discretion. Respondent's sole reason for requesting a rehearing is that he had a change of heart and now believes that it would be better to have the child placed with respondent's sisters. Respondent was aware at the termination hearing that his family was willing to care for the child and one of his sisters was present at the hearing. Indeed, the probate court provided a substantial amount of time for respondent to consider his options, and the state stood ready to proceed with the scheduled involuntary termination procedure. The probate court recessed in the midst of the release proceeding to give respondent another opportunity to confer with his attorney. It is apparent from the record that his release was freely and voluntarily given. Respondent's change of heart does not entitle him to revocation of his release. *In re Curran*, 196 Mich App 380, 383; 493 NW2d 454 (1992). We are unable to conclude that the probate court abused its discretion in denying respondent a rehearing on this basis.

Respondent also argues that the probate court violated his due process rights to a hearing because the agency refused to join in or acquiesce in the petition. Again, we find that the probate court erred in its explanation of the applicable law but that the error was harmless in this case. The agency's acquiescence is not required when a petitioner makes a timely motion, as respondent did in this case. See MCL 710.64(1); MSA 27.3178(555.64)(1). However, there is no due process right to a rehearing, *In the Matter of Myers*, 131 Mich App 160, 165; 345 NW2d 663 (1983), and denial of respondent's timely motion for rehearing was not an abuse of discretion in this case.

Affirmed.

/s/ Clifford W. Taylor

/s/ Harold Hood

/s/ Roman S. Gibbs