

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KENITA LAMAR HARKEY,
Minor.

DEPARTMENT OF SOCIAL SERVICES,

Petitioner-Appellee,

v

JAMES HENRY HARKEY,

Respondent-Appellant.

UNPUBLISHED

July 29, 1997

No. 195026

Wayne Probate Court

LC No. 83-235399

Before: Jansen, P.J., and Wahls and P.R. Joslyn*, JJ.

MEMORANDUM.

Respondent appeals as of right from a probate court order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j); MSA 27.3178(598.19b) (3)(b)(i), (c)(i), (g) and (j). We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E).

The probate court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the probate court's decision complies with MCL 712A.19b(5); MSA 27.3178(598.19b)(5), and there is no clear error in the court's decision. *In re Hall-Smith*, 222 Mich App 470, 472; ___ NW2d ___ (1997).

Next, respondent has not preserved for appellate review his claim that the admission of the letters written by his wife violated his right to due process because he did not object on this ground at the termination hearing. *In re Hildebrant*, 216 Mich App 384, 389; 548 NW2d 715 (1996). In any event, we are satisfied, based on our review of the record, that the admission of the letters did not violate respondent's right to due process. *In re Brock*, 442 Mich 101, 111; 499 NW2d 752 (1993); *In the Matter of Hinson*, 135 Mich App 472, 475; 354 NW2d 794 (1984).

* Circuit judge, sitting on the Court of Appeals by assignment.

Further, although respondent was not required to move for a rehearing in order to challenge the probate court's findings of fact, *In re Rose*, 174 Mich App 85, 88; 435 NW2d 461 (1989), rev'd on other grounds 432 Mich 934 (1989), we find that respondent's newly raised claim (whether the probate court may have based its findings on evidence filed after the close of proofs at the termination hearing) fails to demonstrate either an outcome-determinative due process issue or plain error which warrants relief. *People v Grant*, 445 Mich 535, 553; 520 NW2d 123 (1994); *In re Hildebrant*, *supra*, p 389.

Finally, we deny petitioner's request that this opinion be given immediate effect pursuant to MCR 7.215(E)(2).

Affirmed.

/s/ Kathleen Jansen

/s/ Myron H. Wahls

/s/ Patrick R. Joslyn