

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SYLVESTER DECHENEY
and FELICIA HERSHEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NITA DECHENEY,

Respondent-Appellant,

and

KENNETH HERSHEY,

Respondent.

UNPUBLISHED

December 19, 1997

No. 202155

Muskegon Juvenile Court

LC No. 96-023055 NA

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the juvenile court order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(i), (c)(i), (c)(ii), (g), and (j); MSA 27.3178(598.19b)(3)(a)(i), (c)(i), (c)(ii), (g), and (j). We affirm.

The juvenile 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); *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996). Further, respondent-appellant failed to show that termination of her parental rights was clearly not in the children's best interests. *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997); MCL 712A.19b(5); MSA 27.3178(598.19b)(5); MCR 5.974(E)(2).

We disagree with respondent-appellant's claim that the court "defaulted" her. The record clearly shows that the trial court examined and determined the issues based on the evidence presented during trial. Although respondent was not present, her attorney was present and represented her interests. Respondent's counsel cross-examined the witnesses and gave a closing argument. Ironically, respondent's counsel, who remains respondent's counsel on appeal, indicated that although respondent was not present, "I am able to proceed today." Respondent's counsel also acknowledged that the service and notification of trial was proper. In sum, respondent's failure to appear at trial does not amount to a finding that the court entered a default judgment against her.

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra