

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of WALTER BATES, GABRIEL  
COOK and SAMARA BOOKER, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BURNETA COOK, a/k/a BURNETTA COOK,

Respondent-Appellant,

and

JESSE COOK,

Respondent.

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UNPUBLISHED

October 2, 1998

No. 204536

Muskegon Juvenile Court

LC No. 78-015379 NA

Before: Cavanagh, P.J., and Murphy and White, JJ.

PER CURIAM.

Respondent Burneta Cook appeals as of right from a juvenile court order terminating her parental rights to her minor children, Walter Bates, Gabriel Cook, and Samara Booker, pursuant to MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) [conditions that led to the original adjudication continue to exist and there is no likelihood that the conditions will be rectified within a reasonable time]. We affirm.

Respondent first argues that the juvenile court erred in denying her motion to dismiss. We disagree. Failure to comply with the time requirements of MCR 5.974(F)(1) and (G)(1) does not require dismissal or divest the court of jurisdiction. See *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993); *In re Kirkwood*, 187 Mich App 542, 546; 468 NW2d 280 (1991). We attach no significance to the fact that the court itself imposed certain time limits that were not followed.

Respondent next contends that reversal is required because the juvenile court erred by restricting the evidence to events occurring before the date the petition to terminate parental rights was filed. Again, we disagree.

Respondent relies on *In re Newman*, 189 Mich App 61, 69-70; 472 NW2d 38 (1991). However, although in *Newman* a panel of this Court considered evidence that post-dated the filing of the termination petition, the panel did not hold that such evidence is admissible as a matter of law, or that it is an error of law to exclude such evidence in a given case.

The decision whether to admit or exclude evidence at a termination hearing is within the court's discretion. See *In re Hill*, 221 Mich App 683, 696; 562 NW2d 254 (1997). Here, the juvenile court admitted some evidence involving events that post-dated the filing of the termination petition, but excluded other evidence. Assuming, arguendo, that it was an abuse of discretion to exclude the additional evidence, respondent has failed to show that her substantial rights were affected. The court was not convinced that respondent's recent attitude change signalled a true reversal of direction and believed that respondent's life-long pattern would continue. We are satisfied that the evidence would not have affected the court's decision. See MRE 103(a). Therefore, reversal is not warranted.

Regarding respondent's remaining issues, the juvenile court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. See MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). While some of the conditions were alleviated, others were not. Furthermore, contrary to respondent's argument, it was not petitioner's responsibility to show that termination of respondent's parental rights was in the children's best interests. See MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Respondent failed to provide any evidence from which the court could conclude that termination was clearly not in the best interests of the children. See *In re Hamlet (After Remand)*, 225 Mich App 505, 522-523; 571 NW2d 750 (1997); *Hall-Smith, supra*. Thus, the juvenile court did not err in terminating respondent's parental rights to the children. See *id.*

Affirmed.

/s/ Mark J. Cavanagh  
/s/ William B. Murphy  
/s/ Helene N. White