

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLEY DANIELLE JONES and
ASHTON JUANEZ HARRELL, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TANYA KAY JONES,

Respondent-Appellant,

and

GERALD HARRELL,

Respondent.

UNPUBLISHED

March 30, 1999

No. 212922

Wayne Circuit Court

Family Division

LC No. 97-352870

Before: O'Connell, P.J. and Jansen and Collins, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), and (j). We affirm.¹ This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCL 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Further, respondent-appellant failed to show that termination of her parental rights was “clearly not” in the children’s best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, *supra* at 472-473.

Finally, respondent-appellant's argument that she is entitled to relief because of ineffective assistance of counsel is without merit. Respondent-appellant did not move the trial court for a new trial or an evidentiary hearing on this basis, and so our review is limited to what is apparent from the existing record. *People v Hurst*, 205 Mich App 634, 641; 517 NW2d 858 (1994). Our review indicates that respondent-appellant's attorney worked diligently on her behalf. The substitute counsel that her principal advocate sent in one instance was obviously very familiar with the case, and he zealously advocated respondent-appellant's interests through cross-examination and closing argument. Respondent-appellant additionally complains that counsel failed to call certain witnesses, but the decision whether to present evidence is presumed to be sound trial strategy, which this Court will not review with the benefit of hindsight. *People v Barnett*, 163 Mich App 331, 338; 414 NW2d 378 (1987). Because it appears doubtful that calling the additional witnesses would not have affected the outcome of the trial, counsel's not having done so did not deprive respondent-appellant of a substantial defense. *People v Hoyt*, 185 Mich App 531, 537-538; 462 NW2d 793 (1990); *People v Kelly*, 186 Mich App 524, 526; 465 NW2d 569 (1990).

For these reasons, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Peter D. O'Connell

/s/ Kathleen Jansen

/s/ Jeffrey G. Collins

¹ The father of the minor children, respondent Gerald Harrell, has not appealed the termination of his parental rights.