

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MELISSA FOX, MICHELLE FOX,
SARA FOX and JACOB FOX, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JUDY A. NORBERG,

Respondent-Appellant,

and

RICK NORBERG and ALEC RODRIGUEZ,

Respondents.

UNPUBLISHED

February 18, 2000

No. 217180

Kent Circuit Court

Family Division

LC No. 97-000378 NA

Before: O'Connell, P.J., and Meter and T. G. Hicks*, JJ.

PER CURIAM.

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

The initial petition requesting a preliminary hearing indicated that the children were of Indian heritage. Respondent therefore contends that the proceedings should be invalidated under 25 USC 1914, because petitioner did not send notice of the preliminary hearing to the appropriate parties in the manner required by 25 USC 1912(a), and did not present the necessary proofs required by 25 USC 1912(d) and (e). This issue has not been preserved for appeal because respondent has not provided a transcript of the preliminary hearings for review, *Admiral Ins Co v Columbia Casualty Ins Co*, 194

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

Mich App 300, 304-305; 486 NW2d 351 (1992), and did not raise this issue below. *Adam v Sylvan Glynn Golf Course*, 197 Mich App 95, 98; 494 NW2d 791 (1992). In any event, it appears from the record that the children were placed in foster care on an emergency basis, respondent having left them alone without proper care and supervision. In this circumstance, the provisions of § 1912 are inapplicable. See 25 USC 1922; MCR 5.980(B).

Respondent also contends that the court failed to make a finding, as required under 25 USC 1912(f) and MCR 5.980(D), that the evidence proved beyond a reasonable doubt that her continued custody of the children was likely to result in serious emotional or physical damage to the children. The evidence showed that respondent suffered from an alcohol abuse problem that sometimes caused her to abandon the children. A qualified expert testified that respondent also suffered from various psychological problems and that those problems, which were exacerbated by respondent's substance abuse, would cause her to neglect or ignore the children or otherwise place them at risk. The expert further testified that respondent would not improve without lengthy and intensive treatment. This evidence was sufficient to prove beyond a reasonable doubt that respondent's continued custody of the children was likely to cause them serious emotional or physical harm. See, e.g., *In re PB*, 371 NW2d 366, 372 (SD, 1985). Although the family court did not make an express finding to that effect, its reference to MCR 5.980(D) and recognition of the testimony regarding the likelihood of serious harm clearly showed that it was aware of the issues in the case and decided them in accordance with the applicable law. Therefore, the court's failure to parrot the statutory language was harmless and appellate review would not be facilitated by remanding for further explanation. *In re Hensley*, 220 Mich App 331, 334; 560 NW2d 642 (1996); *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176-177; 530 NW2d 772 (1995).

Affirmed.

/s/ Peter D. O'Connell

/s/ Patrick M. Meter

/s/ Timothy G. Hicks