

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

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In the Matter of NEESHA WRIGHT, a/k/a NE'SHA  
ANGEL IYANNA YVONNE WRIGHT, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NAKETAH WRIGHT, a/k/a NAKETAH OWENS,

Respondent-Appellant.

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UNPUBLISHED

August 11, 2000

No. 219319

Genesee Circuit Court

Family Division

LC No. 97-109147-NA

Before: Murphy, P.J., and Kelly and Talbot, JJ.

PER CURIAM.

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

The family court did not clearly err in finding that §§ 19b(3)(g) and (j) were both established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

We also reject respondent's argument that the family court clearly erred in terminating her parental rights under § 19b(3)(c)(ii), based on the "other conditions" language in that subsection. Respondent argues that the phrase "other conditions" is analogous to the "changed circumstance" language in MCR 5.974(E) and, therefore, in order to terminate parental rights based on that language, appellee must prove by clear and convincing evidence the existence of some other statutory basis for termination set forth in MCL 712A.19b(3); MSA 27.3178(598.19b)(3). As a result, respondent contends, termination under § 19b(3)(c)(ii) is statutorily hollow and circular in nature.

We find no ambiguity in the language of § 19b(3)(c)(ii) and conclude that respondent's interpretation of the statute is without merit. In construing the terms of a statute, effect must be given to

the Legislature's intent. When statutory language is clear and unambiguous, the legislative intent must be honored as clearly indicated in that language. No further construction is required or permitted. Further, where a statute does not define a term, its plain and ordinary meaning should be used. *Western Michigan University Board of Control v Michigan*, 455 Mich 531, 538-539; 565 NW2d 828 (1997).

Termination of parental rights is appropriate under § 19b(3)(c)(ii) where a child has come within the jurisdiction of the court and, at a termination hearing at least 182 days later, the court finds that other conditions that would bring the child within the jurisdiction of the court are continuing. *In re Sours*, 459 Mich 624, 636; 593 NW2d 520 (1999). The initial requirement of this subsection is satisfied. The family court took jurisdiction of the child after an adjudication hearing. The question is whether there are other conditions that would bring the child within the jurisdiction of the court that respondent failed to rectify after notice and a reasonable opportunity to improve.

The child initially came within the jurisdiction of the court because respondent left the home of her relative placement and took the child, who was a month old, with her and refused to return, respondent had run away from home on several occasions and the relative would not allow respondent back in her home due to her behavior, and, although respondent, the relative and a worker signed an agreement laying out what was expected of respondent if she continued to stay with the relative, respondent violated the agreement by running away. A termination petition was subsequently filed by appellee, alleging that respondent had been AWOL and had failed to maintain suitable and stable housing, participate in and complete parenting classes, maintain consistent contact with the worker, seek and participate in counseling programs or visit the child on a regular basis. The petition was subsequently withdrawn and respondent was ordered to follow all recommendations of the worker and comply and be successful in a residential program. A second termination petition was thereafter filed alleging that respondent failed to successfully complete a court-ordered parent/agency agreement specifically prepared to help her regain custody of the child by failing to participate in a substance abuse program, maintain employment, maintain regular visitation and enroll in or complete a parenting class and by testing positive for cocaine on two occasions.

The evidence at the permanent custody hearing established that respondent failed to substantially comply with the parent/agency agreement. Although respondent testified that she was attending school and working toward obtaining her G.E.D. at the time of the hearing, she admitted that she had submitted drug screens that were positive for cocaine and that she had not attended any substance abuse treatment. Respondent was on AWOL status after she left her relative placement, and then lived with her sister. At the time of the hearing, respondent was living with her mother, whose own parental rights to her and several siblings had been terminated. Respondent acknowledged that her mother had difficulty providing for herself. Respondent also admitted that she had attended only half of a parenting skills program and did not complete the program. Respondent's visits with the child were initially sporadic. Although her visits became more consistent later in the proceedings, the workers were unable to determine whether respondent had bonded with the child. Respondent's attendance at counseling and employment were also sporadic.

This evidence was sufficient to support the family court's determination that § 19b(3)(c)(ii) was established. Respondent had been put on notice via two separate termination petitions that she had neglected the child by failing to successfully complete the parent/agency agreement. Respondent had been ordered at review hearings to comply with the parent/agency agreement. The record indicates that respondent failed to ameliorate her neglect, despite a reasonable opportunity to do so after she received notice of the problem and had been afforded hearings regarding it. Therefore, the family court did not clearly err in terminating respondent's parental rights under § 19b(3)(c)(ii).

Although respondent correctly argues that the family court abused its discretion in admitting hearsay testimony concerning her substance abuse, the error was harmless. One of the factors relied on by the family court in terminating respondent's parental rights was her substance abuse problem. Because this circumstance was not related to the court's initial assumption of jurisdiction, the matter was required to be proven by legally admissible evidence. *In re Gilliam*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (No. 218044, issued 5/12/00), slip op p 2; *In re Snyder*, 223 Mich App 85, 88-91; 566 NW2d 18 (1997). Although inadmissible hearsay evidence was presented to establish this new and different circumstance through the workers' testimony regarding respondent's drug screen results, MRE 801, legally admissible evidence was also presented to establish respondent's substance abuse. Respondent admitted that she had submitted drug screens that were positive for cocaine and that she had not attended any substance abuse treatment. Therefore, admission of the workers' testimony was harmless because it was merely cumulative to respondent's own testimony.

Finally, termination of parental rights was required unless the court found that termination was clearly not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, \_\_\_ Mich \_\_\_; \_\_\_ NW2d \_\_\_ (No. 112528, issued 7/5/2000), slip op p 27. On this record, we cannot conclude that the court's finding was clearly erroneous or that termination was clearly not in the children's best interest. Accordingly, the court did not err in terminating respondent's parental right to the child. *Id.*

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Michael J. Talbot