

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

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In the Matter of ERIN MARIE MARTIN, REBEKAH  
LEA MARTIN, VICTORIA ANNE MARTIN and  
CAROLYN ABIGAIL MARTIN, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

THERESA MARTIN,

Respondent-Appellant,

and

STEVE ELSTON MARTIN,

Respondent.

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In the Matter of ERIN MARIE MARTIN, REBEKAH  
LEA MARTIN, VICTORIA ANNE MARTIN and  
CAROLYN ABIGAIL MARTIN, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

STEVE ELSTON MARTIN,

Respondent-Appellant.

UNPUBLISHED  
October 31, 2000

No. 221622  
Wayne Circuit Court  
Family Division  
LC No. 95-330340

No. 221662  
Wayne Circuit Court  
Family Division  
LC No. 95-330340

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Before: Neff, P.J., and Talbot and J.B. Sullivan\*, JJ.

PER CURIAM.

Following a hearing, the family court terminated respondent Steve Martin's parental rights to each of the four minor children pursuant to MCL 712A.19b(3)(b)(i), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(b)(i), (c)(i), (g) and (j). Respondent Theresa Martin voluntarily released her parental rights to the three youngest children; her parental rights to the oldest child were not terminated. Both respondents appeal as of right.

Respondent Theresa Martin argues that the trial court erroneously failed to rule on her motion for rehearing of the decision to voluntarily release her parental rights. We find no merit to this argument. Contrary to respondent's contention, her request for the appointment of appellate counsel was not the equivalent of a motion for rehearing. To obtain rehearing of the court's decision, respondent was required to file an appropriate motion, upon notice to the parties, identifying the grounds for rehearing. See e.g., MCR 5.756, MCR 5.992, and MCL 710.64(1); MSA 27.3178(555.64)(1). Because such a motion was never filed, there was nothing before the trial court that required a responsive ruling. Furthermore, there is no merit to respondent's claim that the trial court was required to advise her at the time she released her parental rights that a change of heart was an insufficient basis for granting rehearing. *In re Curran*, 196 Mich App 380, 383-385; 493 NW2d 454 (1992).

Respondent Theresa Martin also argues that the trial court erroneously exercised jurisdiction over her daughter Carolyn, in violation of her due process rights under US Const, Am XIV. We conclude that this issue is not properly before us because respondent Martin did not directly appeal the jurisdictional decision when she had the opportunity to do so. See MCR 5.993(A)(1). She may not now collaterally attack the court's exercise of jurisdiction. *In re Hatcher*, 443 Mich 426, 439-444; 505 NW2d 834 (1993); *In re Powers*, 208 Mich App 582, 587; 528 NW2d 799 (1995). Even if we were to consider this issue, however, we would find no basis for relief. Respondent Theresa Martin expressly agreed that the court did not need to take additional testimony, because the facts relevant to the jurisdictional question were undisputed. Accordingly, she cannot now predicate error on the court's failure to hear additional testimony. *People v Cross*, 202 Mich App 138, 142; 508 NW2d 144 (1993); *Dresselhouse v Chrysler Corp*, 177 Mich App 470, 477; 442 NW2d 705 (1989).

The family court did not clearly err in finding that the statutory grounds for termination of respondent Steve Martin's parental rights were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not establish that termination of respondent Steve Martin's parental rights was clearly not in

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

the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 364; 612 NW2d 407 (2000).

Affirmed.

/s/ Janet T. Neff

/s/ Michael J. Talbot

/s/ Joseph B. Sullivan