

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BNP, DP, PLC, and HTC, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CATHERINE PRICE,

Respondent-Appellant,

and

JERONE EDWARDS and TERRANCE COX,

Respondents.

UNPUBLISHED

January 19, 2001

No. 224657

Kalamazoo Circuit Court

Family Division

LC No. 95-000072-NA

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

MEMORANDUM.

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

Based upon our review of the record, we conclude that the family court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence.¹ Subsection (j) requires a trial court to terminate a parent's parental rights if there is clear and convincing evidence that the children will be harmed if returned to the parent's home. Respondent-appellant's history of anger and emotional problems, as well as a pattern of dating

¹ MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

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

abusive men, clearly poses a risk of harm to her children. While she made some progress in therapy, there is no evidence that this progress is substantial or permanent.

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests.² Contrary to respondent-appellant's argument, the best interest provision of subsection 19b(5) does not impose a burden of proof on petitioner.³ Even if the family court erroneously applied the best interest standard as explained in *In re Hall-Smith*,⁴ the family court's remarks make clear that it found no evidence on the record as a whole that indicated that termination was against the children's best interests. Thus, even if the family court technically erred in referring to respondent-appellant's burden of proof on this issue, the error was harmless because the family court's findings fit the clarified best interest factors.⁵

Affirmed.

/s/ Jane E. Markey
/s/ William C. Whitbeck
/s/ Jeffrey L. Martlew

² MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, 462 Mich 341, 352; 612 NW2d 407 (2000).

³ *Trejo, supra* at 352-354.

⁴ *In Re Hall-Smith*, 222 Mich App 470, 473; 564 NW2d 156 (1997).

⁵ See *Trejo, supra*.