STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of BUSTER MCCLENT CARTER, JR., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LEO M. CARTER, SR.,

Respondent-Appellant,

and

SHEILA J. BROWN,

Respondent.

UNPUBLISHED
January 23, 2001

No. 227579
Berrien Circuit Court
Family Division
LC No. 00-000010-NA

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

PER CURIAM.

Respondent-appellant appeals by right from the family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (m); MSA 27.3178(598.19b)(3)(g) and (m). We affirm.

The family court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not establish that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *Trejo, supra* at 344, 356-357.

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

We reject respondent-appellant's challenge involving the statutory interpretation of MCL 712A.19b(3)(m); MSA 27.3178(598.19b)(3)(m). The Legislature is presumed to have intended the meaning it plainly expressed. *In re Halbert*, 217 Mich App 607, 612; 552 NW2d 528 (1996). Section 19b(3)(m) is clear and unambiguous and does not require judicial interpretation. *Id.* Subsection (3)(m) plainly expresses the Legislature's intent that parental rights be terminated where a parent has voluntarily released parental rights to another child after the initiation of proceedings under § 2(b).[1] Nothing in subsection (3)(m) suggests that it is necessary to prove either prior chronic neglect or that prior rehabilitative efforts have been unsuccessful.

Respondent-appellant was not denied the effective assistance of counsel. Although respondent-appellant's counsel did not cross-examine appellee's witnesses or present any evidence or argument with regard to the issues of jurisdiction and the existence of a statutory ground for termination, counsel recalled two witnesses with respect to whether termination of respondent-appellant's parental rights was in the child's best interests and thoroughly examined the witnesses. Counsel also challenged respondent-appellant's drug screen results, objected to a court report, made objections during the cross-examination of the witnesses, and gave a closing argument. Decisions concerning which witnesses to call, what evidence to present, or the questioning of witnesses are considered matters of trial strategy, which this Court will not second-guess. *People v Bass (On Rehearing)*, 223 Mich App 241, 253; 565 NW2d 897 (1997), vacated in part on other grounds 457 Mich 866 (1998). Respondent-appellant has failed to show that counsel was deficient in this regard.

Respondent-appellant also claims that, because his counsel did not have the option of obtaining independent experts, he was denied the effective assistance of counsel. However, respondent-appellant failed to establish a need for independent experts. There is no evidence that appellee's experts were biased or prejudiced against respondent-appellant. See *In re Bell*, 138 Mich App 184, 187-188; 360 NW2d 868 (1984). Based on the parents' history of domestic violence and substance abuse and their failure to make substantial changes in their lives, the foster care workers believed that it would be in the child's best interests to terminate parental rights. The purpose of child protective proceedings is the protection of the child, and the juvenile code is intended to protect children from unfit homes rather than to punish their parents. *In re Brock*, 442 Mich 101, 107-108; 499 NW2d 752 (1993).

Respondent-appellant's argument that MCL 712A.19a; MSA 27.3178(598.19a) creates a conflict of interest for appellee with respect to its involvement in child protective proceedings was not preserved for appellate review because it was not raised in the trial court, nor is it identified in respondent-appellant's statement of questions presented. *In re Hildebrant*, 216 Mich App 384, 389; 548 NW2d 715 (1996); *Meagher v McNeely & Lincoln, Inc*, 212 Mich App 154, 156; 536 NW2d 851 (1995); see, also, *Hilliard v Schmidt*, 231 Mich App 316, 318; 586

[1] MCL 712A.2(b); MSA 27.3178(598.2)(b).

NW2d 263 (1998). Accordingly, we decline to consider it.

We affirm.

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