

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TRESHAWN MARQUISE
MARSH, JASMINE DENISE MARSH,
CHRISTOPHER TROY MARSH, and MALACHI
LEE MARSH, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANNA MARSH,

Respondent-Appellant.

UNPUBLISHED

March 16, 2001

No. 224515

Ingham Circuit Court

Family Division

LC No. 00-034305-NA

Before: Griffin, P.J., and Neff and White, JJ.

PER CURIAM.

Respondent appeals as of right, challenging a jury's determination that the minor children came within the purview of the family court's jurisdiction pursuant to MCL 712A.2(b); MSA 27.3178(598.2)(b), and the family court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(i), (b)(ii), and (k); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), and (k). We affirm.

Respondent's present attempt to challenge the family court's assumption of jurisdiction is without merit for the reasons set forth by this Court in *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995):

[A] probate court's jurisdiction in parental rights cases can be challenged only on direct appeal, not by collateral attack. *In re Hatcher*, 443 Mich 426, 439; 505 NW2d 834 (1993). In the instant case, respondent neither directly appealed the probate court's exercise of jurisdiction nor requested a rehearing of this issue during the time the court had jurisdiction over the child or within twenty days after the order terminating parental rights was entered. MCL 712A.21; MSA 27.3178(598.21). *Hatcher, supra* at 436. Accordingly, respondent no longer has the ability to challenge the probate court's exercise of jurisdiction. *Id.* at 444.

In any event, our review of the evidence adduced at trial reveals that a reasonable jury could have determined that each alleged jurisdictional basis was established by a preponderance of the evidence. MCR 5.972.¹ Additionally, on the basis of the whole record, we conclude 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 Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the evidence was sufficient to support jurisdiction, and the family court did not err in terminating respondent's parental rights to the children.

We also find respondent was not denied due process. Because the meaning of each challenged statutory term can be readily ascertained by consulting prior judicial interpretations, or the commonly understood fair and natural import of the words employed, the statutes are not unconstitutionally vague. *Kolendar v Lawson*, 461 US 352, 357-358; 103 S Ct 1855; 75 L Ed 2d 903 (1983); *People v Morey*, 461 Mich 325, 330; 603 NW2d 250 (1999); *People v Noble*, 238 Mich App 647, 652; 608 NW2d 123 (1999).

Moreover, respondent was not denied a fair trial by the cumulative effect of the court's rulings. First, ordering a psychological evaluation of the children was within the court's discretion, MCR 5.923(B), and respondent failed to demonstrate the necessity of another evaluation. Second, under MRE 401, the challenged portions of the petition were relevant to the alleged jurisdictional bases. Third, where the mental well-being of the children was at issue, their out-of-court statements to the examining psychologist, regarding their existing states of mind, were admissible at the adjudication of jurisdiction, either as nonhearsay or pursuant to MRE 803(1), (3) or (4). See MRE 801; MCR 5.972(C)(1). Finally, the court did not err by excluding prior expert testimony regarding respondent's culpability, or lack thereof, where her culpability was immaterial to whether the children's environment was unfit. See MCL 712A.2(b); MSA 27.3178(598.2)(b); *In re Jacobs*, 433 Mich 24, 37; 444 NW2d 789 (1989). Therefore, because none of these rulings amounted to error, their cumulative effect did not deny respondent due process of law. *In re EP*, 234 Mich App 582, 599; 595 NW2d 167 (1999), overruled on other grounds by *In re Trejo*, *supra* at 353.

Affirmed.

/s/ Richard Allen Griffin
/s/ Janet T. Neff
/s/ Helene N. White

¹ Because each alleged jurisdictional basis was supported by the evidence, the trial court did not err by instructing the jury that it could find that respondent's home was an unfit environment on the basis of, among other things, cruelty or drunkenness. MCL 712A.2(b); MSA 27.3178(598.2)(b). *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000).