

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

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In the Matter of A. M. L. and J. M. L., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

HEATHER LETTS,

Respondent-Appellant,

and

CLEO LETTS,

Respondent.

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UNPUBLISHED

March 16, 2001

No. 225380

Midland Circuit Court

Family Division

LC No. 99-000135-NA

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

PER CURIAM.

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

I

Respondent argues that the family court’s failure to appoint counsel until after the preliminary hearing deprived her of her right to counsel. We disagree. In child protective proceedings, indigent respondents are afforded the right to court-appointed counsel by statute, MCL 712A.17c(5); MSA 27.3178(598.17c)(5), and court rule, MCR 5.915(B)(1). The record reflects no violation of the right to counsel.

The family court referee advised respondent at the preliminary hearing of her right to an attorney at all subsequent hearings and her right to a court-appointed attorney if she was financially unable to retain counsel. At the end of the hearing, the referee again referred to respondent’s right to retain counsel or request appointed counsel. Respondent indicated that she

would be asking for appointed counsel, and the referee directed her to complete the appropriate forms after the hearing. Respondent filed a request for appointed counsel after the hearing, and the family court promptly appointed counsel to represent her two days after the hearing.

Under MCR 5.915(B)(1), respondent did not have a right to appointed counsel until she requested counsel and a determination was made by the family court regarding her financial inability to retain counsel. *In re Hall*, 188 Mich App 217; 469 NW2d 56 (1991). Counsel could then be appointed to represent respondent “at any later hearing” pursuant to MCR 5.915(B)(1)(a)(ii). It is apparent that respondent’s right to counsel was not violated. The family court referee carefully sought to ensure that respondent understood the nature of the proceedings and properly advised respondent of her right to an attorney and what she needed to do to request an attorney. Accordingly, there was no error.

## II

Respondent-appellant also argues that the failure to comply with certain time guidelines for filing a termination petition requires that the order terminating her parental rights be set aside, citing MCL 712A.19a(5); MSA 27.3178(598.19a)(5) and MCR 5.974(F)(1)(a). We disagree.

The statutory 42-day period was not met (the petition was filed two days late). However, this Court held in *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993), that failure to follow the time requirements of MCR 5.974(F) does not require reversal of a termination order, that neither the court rule nor the statute provides sanctions for their violation, and that the Court would not impose sanctions that the Legislature and the Supreme Court have declined to impose. See also *In re Kirkwood*, 187 Mich App 542, 545-546; 468 NW2d 280 (1991) (holding that the failure to meet the 42-day requirement did not divest the trial court of jurisdiction to continue to hear the matter). Respondent does not allege any prejudice owing to the brief delay in filing and we find that her argument on this issue is without merit.

## III

Finally, 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; 612 NW2d 407 (2000). Thus, the family court did not err in terminating respondent’s parental rights to the children. *Id.*

Affirmed.

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