

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D.R.K., III, and W.E.K., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DANIEL R. KENDALL, JR.,

Respondent-Appellant,

and

DESTINY ROSCOE,

Respondent.

In the Matter of B.M.K., D.R.K., III, and W.E.K.,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DESTINY ROSCOE,

Respondent-Appellant,

and

DANIEL R. KENDALL, JR. and JOHN ROBERT
HILL,

Respondents.

UNPUBLISHED

April 27, 2001

No. 227014

Barry Circuit Court

Family Division

LC No. 97-004997-NA

No. 227099

Barry Circuit Court

Family Division

LC No. 97-004997-NA

Before: Hoekstra, P.J., and Whitbeck and Cooper, JJ.

MEMORANDUM.

In Docket No. 227014, respondent Kendall appeals as of right from a family court order terminating his parental rights to his two minor children under MCL 712A.19b(3)(b)(i) and (b)(ii); MSA 27.3178(598.19b)(3)(b)(i) and (b)(ii) at the initial dispositional hearing. In Docket No. 227099, respondent Roscoe appeals as of right from the same family court order, which terminated her parental rights to her three minor children under MCL 712A.19b(3)(b)(i), (b)(ii), and (m); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), and (m). We affirm.

The family court did not clearly err in finding that subsections 19b(3)(b)(i) and (b)(ii) were established by clear and convincing evidence with respect to both respondents, and that the evidence warranted termination at the initial dispositional hearing. MCR 5.974(D) and (I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). Termination at the initial dispositional hearing was mandatory because the petition requested termination, the children were found to come within the jurisdiction of the court, and the evidence provided proof that the children were physically abused and that the situation would not improve.¹

Furthermore, the court did not clearly err in finding that termination of respondents' parental rights was not clearly contrary to the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000). Thus, the family court did not err in terminating respondents' parental rights to the children. *Trejo, supra* at 356-357.²

Affirmed.

/s/ Joel P. Hoekstra
/s/ William C. Whitbeck
/s/ Jessica R. Cooper

¹ Justification for terminating parental rights at the initial dispositional hearing can be based on surrounding circumstances and is not limited to the grounds listed in § 19a of the Juvenile Code. See 1988 staff comment following MCR 5.993.

² We also reject respondent Roscoe's argument that the family court lost jurisdiction to terminate her parental rights because the court did not issue its opinion within twenty-eight days of taking final proofs as required by MCR 5.974(G)(1). The court rule does not provide a sanction for its violation, and this Court will not impose a sanction that the Legislature and Supreme Court have declined to impose. *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993).