

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DANIELLE BREANA PITTAO,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DANIEL PITTAO,

Respondent-Appellant.

UNPUBLISHED
May 18, 2001

No. 228163
Oakland Circuit Court
Family Division
LC No. 98-604706-NA

Before: White, P.J., and Cavanagh and Talbot, JJ.

PER CURIAM.

Respondent appeals as of right from the family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (j) and (k)(iii); MSA 27.3178(598.19b)(3)(c)(i), (g), (j) and (k)(iii). 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). Respondent's claim that, during the proceedings, he was essentially on trial for the murder of his wife is unpersuasive. In its findings, the trial court specifically indicated that it did not consider respondent's wife's murder. Moreover, the court indicated in detail the factors on which it relied, including respondent's failure to address his substance abuse and domestic violence issues, his lack of credibility, and his failure to comply with the case treatment plan. Further, the evidence did not show that termination of respondent'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 354.

We reject respondent's claim that the trial judge should have disqualified himself because he was biased and predisposed in his rulings. We review the denial of a motion for disqualification for an abuse of discretion. *People v Wells*, 238 Mich App 383, 391; 605 NW2d 374 (1999). Absent actual personal bias or prejudice, a judge will not be disqualified. MCR 2.003(B)(1); *Cain v Dep't of Corrections*, 451 Mich 470, 495; 548 NW2d 210 (1996). A judge's

opinions that are formed on the basis of facts introduced or events that occur during the proceedings do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. *Id.* at 496, citing *Liteky v United States*, 510 US 540, 555; 114 S Ct 1147; 127 L Ed 2d 474 (1994). Judicial rulings alone rarely establish disqualifying bias or prejudice. *Cain, supra*. Further, a party who challenges a judge for bias must overcome a heavy presumption of judicial impartiality. *Id.* at 497. Here, the record fails to show actual bias or prejudice on the part of the trial judge.

Finally, we decline to address respondent's remaining claims challenging the family court's exercise of jurisdiction over the minor. A family court's exercise of jurisdiction in parental rights cases can be challenged only on direct appeal, not by collateral attack. *In re Hatcher*, 443 Mich 426, 439, 444; 505 NW2d 834 (1993); *In re Powers*, 208 Mich App 582, 587; 528 NW2d 799 (1995). Therefore, respondent may not challenge the family court's exercise of jurisdiction in this appeal from the termination order. *Hatcher, supra*.

Affirmed.

/s/ Helene N. White
/s/ Mark J. Cavanagh
/s/ Michael J. Talbot