STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of KAYELYNN MARIE RAY and JONATHON DANIEL RAY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

STEPHANIE RAY,

Respondent-Appellant.

UNPUBLISHED
June 8, 2001

No. 225813
Oakland Circuit Court
Family Division
LC No. 97-062966-NA

Before: McDonald, P.J., and Smolenski and K. F. Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the family court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (c)(ii) and (g); MSA 27.3178(598.19b)(3)(c)(i), (c)(ii) and (g)[1]. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Where termination of parental rights is sought, the existence of a statutory ground for termination must be established by clear and convincing evidence. MCR 5.974(A), (F)(3); *In re Bedwell*, 160 Mich App 168, 173; 408 NW2d 65 (1987); see also MCL 712A19b(1); MSA 27.3178(598.19b)(1). The trial court's findings of fact are reviewed for clear error. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court finds at least one statutory ground for termination has been established by clear and convincing evidence, the trial court must terminate parental rights unless to do so is clearly not in the child's best interest. *In re Trejo Minors*, 462 Mich 341, 351; 612 NW2d 407 (1999).

[1] The court also terminated the parental rights of the children's father, Daniel Ray. Respondent and Daniel Ray are still married but his whereabouts are unknown. He has not appealed the decision of the trial court, and is not a party to this appeal.

The family court did not clearly err by 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). In her no contest pleas, respondent admitted the statutory grounds thus establishing same by the requisite clear and convincing evidence. Although the trial court did not have the benefit of our Supreme Court's explanation in *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000), regarding the burden of going forward with evidence for purposes of MCL 712A.19b(5); MSA 27.3178(598.19b)(5), the evidence presented by all the parties did not show that termination of respondent's parental rights was clearly not in the children's best interests. *In re Trejo*, *supra*. Thus, the family court did not err by terminating respondent's parental rights to the children.

Similarly, is no merit to respondent's ineffective assistance of counsel claim. The same principles apply to claims of ineffective assistance in termination hearings as apply in criminal proceedings. *In re Simon*, 171 Mich App 443, 447; 431 NW2d 71 (1988). This Court granted respondent's motion for a *Ginther*[2] hearing, and respondent has not overcome the strong presumption that counsel's performance was reasonable, or that she was prejudiced by any alleged deficient performance. *People v Mitchell*, 454 Mich 145, 156; 560 NW2d 600 (1997).

Finally, the family court did not abuse its discretion by denying respondent's motion to withdraw her no contest plea to the allegations in the petition. The record does not support respondent's claim that her plea was based on an illusory promise. First, as respondent acknowledged at the plea hearing, there were no promises made in exchange for her plea and second, the family court adequately explained the ramifications and repercussions of the respondent's plea. Furthermore, respondent had an additional ninety days to comply with the Parent-Agency Agreement. However, after the children spent more than 2-1/2 years in foster care, and by the time of the best interests hearing, respondent still had not complied with the requirements of the agreement. Accordingly, a review of the complete record reveals that the family court did not abuse its discretion by denying respondent's motion.

Affirmed.

/s/ Gary R. McDonald
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly

[2] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).