

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of L.X.A.B., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TUNISIA BRAZIER,

Respondent-Appellant,

and

TERRANCE CROSBY and JOHN PAYMON,

Respondents.

UNPUBLISHED
October 2, 2001

No. 230240
Wayne Circuit Court
Family Division
LC No. 99-381683

Before: Cavanagh, P.J. and Markey and Cooper, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the family court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g) and (i). We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant presents three issues on appeal. She first argues that the family court violated MCL 712A.13a(11) when it suspended her visitation without establishing, through a psychological evaluation or counseling, that parenting time was harmful to the child. We disagree. Respondent-appellant failed to preserve this issue for this Court's review by seeking judicial review of the referee's order pursuant to MCR 5.991(A). Nonetheless, although the family court failed to comply with MCL 712A.13a(11) before suspending visitation, the error was harmless because termination was based on factors unrelated to the lack of visitation during the period in question. See *In re Kosmalski*, unpublished opinion per curiam of the Court of Appeals, issued February 23, 2001 (Docket No. 225494).

Next, respondent-appellant argues that she was denied due process when the family court terminated her parental rights under §§ 19b(3)(c)(i) and (i) because those provisions were not

cited in the petition for permanent custody. We disagree. Respondent failed to preserve this issue by objecting at trial. *In re NEGP*, 245 Mich App 126, 134; 626 NW2d 921 (2001). This Court reviews unpreserved constitutional issues for plain error. *People v Carines*, 460 Mich 750, 764; 597 NW2d 130 (1999). Petitioner concedes that there was no factual basis for termination under § 19b(3)(i). In any event, although the petition only specifically cited § 19b(3)(g) as grounds for termination, such defect was technical and did not erode the fact of the actual notice because the petition listed with specificity all the allegations of neglect that formed the bases of the court's decision to terminate under § 19b(3)(c)(i). *In re Perry*, 193 Mich App 648, 651; 484 NW2d 768 (1992); *In re Slis*, 144 Mich App 678, 684; 375 NW2d 788 (1985).

Finally, respondent-appellant argues termination under § 19b(3)(g) was not supported by clear and convincing evidence. We disagree. This Court reviews for clear error the trial court's determination that statutory grounds for terminating parental rights were proven by clear and convincing evidence and its decision regarding the child's best interests. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court did not clearly err in finding that grounds for termination under § 19b(3)(g) were established by clear and convincing evidence. Further, because at least one ground for termination was established, the court was required to terminate respondent-appellant's parental rights unless the court found that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000). The court's finding regarding the child's best interests was not clearly erroneous. *Trejo, supra*. Thus, we find no clear error in the trial court's decision to terminate respondent-appellant's parental rights.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Jane E. Markey
/s/ Jessica R. Cooper