STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of TDMK, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ALMENA SMITH,

Respondent-Appellant,

and

CLARENCE KNOX and DAMEN MERRIWEATHER,

Respondents.

UNPUBLISHED
November 2, 2001

No. 231195
Wayne Circuit Court
Family Division
LC No. 86-257409

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

MEMORANDUM.

Respondent-appellant appeals as of right from a family court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (i) and (j).[1] We affirm.

The family court did not clearly err in finding that subsections 19b(3)(g), (i) and (j) were each established by clear and convincing evidence. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence showed that respondent-appellant had been using cocaine and alcohol for thirteen years and was unable or unwilling to care for six other children. Five of these other children were in the care of guardians, and one was made a permanent court ward in 1994. Respondent-appellant's use of cocaine, while pregnant and within four months of the

[1] The court also referred to subsections 19b(3)(a)(i) and (ii), but did not distinguish between the grounds applicable to respondent-appellant and those applicable to the putative fathers. Appellees acknowledge that subsections 19b(3)(a)(i) and (ii) were not intended to apply to respondent.

termination hearing, demonstrates that previous efforts at drug treatment have been unsuccessful. Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000).

We are not persuaded that 42 USC 671(a)(15)(B) obligated petitioner to expend efforts at reunifying the family before proceeding to termination in this case. This provision is part of the Adoption Assistance and Child Welfare Act, a reimbursement program for expenses incurred by states administering foster care and adoption services. To be eligible for the program, a state must submit a plan complying with certain requirements set forth in 42 USC 671. The provision cited by respondent-appellant, 42 USC 671(a)(15), requires, in part, that the plan provide that reasonable efforts "shall be made to preserve and reunify families[.]" 42 USC 671(a)(15)(B). Even if Michigan has submitted a plan in conformance with the statute, the section on which respondent-appellant relies is not applicable where, as here, a parent's rights to a sibling have been involuntarily terminated. 42 USC 671(a)(15)(D)(iii). We are likewise not persuaded that Michigan law requires that, in every instance, petitioner use reasonable efforts to reunify the family before termination. MCL 712A.19b(4), which expressly authorizes a court to terminate parental rights at the initial dispositional hearing, demonstrates that the Legislature recognized that there are situations in which termination is warranted immediately, without a period of delay to evaluate whether efforts at reunification might be successful.

Affirmed.

/s/ William C. Whitbeck
/s/ Janet T. Neff
/s/ Joel P. Hoekstra