

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KAYLA MYERS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KIMBERLEY LYNN MYERS,

Respondent-Appellant,

and

JEFFREY J. MYERS,

Respondent.

UNPUBLISHED

January 4, 2002

No. 233269

Oakland Circuit Court

Family Division

LC No. 00-638916-NA

Before: Meter, P.J., and Jansen and R. D. Gotham*, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (i) and (j). We affirm.

Once a trial court determines that at least one statutory ground for termination has been established by clear and convincing evidence, it must terminate parental rights unless "there exists clear evidence, on the whole record, that termination is not in the child's best interests." MCL 712A.19b(5), *In re Trejo Minors*, 462 Mich 341, 350, 364-365; 612 NW2d 407 (2000). Respondent-appellant argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

We review the trial court's findings in termination proceedings for clear error. *In re Miller*, 433 Mich 331, 358; 445 NW2d 161 (1989). We do not believe that the record supports a finding that § 19b(3)(g) was established because termination under § 19b(3)(g) requires a showing of a neglectful act or omission. *In re Jacobs*, 433 Mich 24, 35-37; 444 NW2d 789 (1989). Because respondent-appellant never had custody of the child following her birth, no

* Circuit judge, sitting on the Court of Appeals by assignment.

such showing was established. However, we do find that the record supports the trial court's finding that the statutory grounds for termination under §§ 19b(3)(i) and (j) were established by clear and convincing evidence. Furthermore, considered in its entirety, the evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. Therefore, we conclude that termination of respondent-appellant's parental rights was proper. MCL 712A.19b(5); *Trejo, supra*, pp 364-365.

Affirmed.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Roy D. Gotham