

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAMYRIN WILLIAMS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL C. PARKER,

Respondent-Appellant,

and

SHEILA MARIE WILLIAMS,

Respondent.

UNPUBLISHED
February 26, 2002

No. 229841
Wayne Circuit Court
Family Division
LC No. 83-237205

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

MEMORANDUM.

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

The trial court did not clearly err in finding that the statutory grounds for termination, other than MCL 712A.19b(3)(j),¹ were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). 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, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

¹ Petitioner concedes that termination under MCL 712A.19b(3)(j) was error.

Respondent also argues that the trial court lacked jurisdiction to terminate his parental rights because he was not properly served with notice of the termination proceedings and advised of his right to have his case heard by a judge. An executed summons and return of service establish that respondent received a copy of the supplemental petition seeking permanent custody, advised of his right to have his case heard by a judge, and notified of the hearing date. Moreover, respondent was in attendance at the hearing, albeit by speakerphone as he was incarcerated at the time. Thus, respondent's argument that he was denied due process is unsupported by the record.

Finally, respondent argues that he was denied effective assistance of counsel because counsel's joint representation of respondent and the mother created a conflict of interest. We disagree. Because respondent failed to preserve this issue by moving for a new trial or an evidentiary hearing at the trial court, our review is limited to the existing record. *People v Snider*, 239 Mich App 393, 423; 608 NW2d 502 (2000). Representation of multiple respondents by one attorney can present a conflict of interest. *See, e.g., People v Lafay*, 182 Mich App 528, 530; 452 NW2d 852 (1990). The conflict will not be presumed or implied. *Id.* Rather, it must be shown that an actual conflict of interest existed and adversely affected the adequacy of the representation. *Id.* Our review of the record confirms that respondent has failed to establish that he was denied effective assistance of counsel. Counsel did not advance a position on behalf of one parent that compromised the other parent's interests. Therefore, counsel's representation of both respondent and the child's mother did not create a conflict of interest.

Affirmed.

/s/ Michael R. Smolenski
/s/ Martin D. Doctoroff
/s/ Donald S. Owens