

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A. K. K. G., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PAMELA GILDAY,

Respondent-Appellant,

and

CHRISTOPHER GILDAY,

Respondent.

UNPUBLISHED

March 1, 2002

No. 234180

Wayne Circuit Court

Family Division

LC No. 00-394729

Before: Bandstra, P.J., and Murphy and Murray, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (j), and (k)(i).¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from

¹ Respondent's brief on appeal incorrectly states that the trial court terminated her parental rights under MCL 712A.19b(3)(a)(i) (child's parent is unidentifiable and has deserted child for twenty-eight days). The trial court did not cite this subsection in support of its decision to terminate respondent's parental rights. The trial court's order also terminated the parental rights of respondent Christopher Gilday, who was listed on the birth certificate as the child's father but who denied paternity.

evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.* at 356-357.

We hold that the trial court did not clearly err in finding that petitioner established by clear and convincing evidence one or more statutory grounds for termination of respondent's parental rights. The evidence showed that respondent left her seven-month-old child with a relative for at least five days and did not communicate her whereabouts during that time. Respondent was unemployed and had no permanent home. Her longstanding addiction to crack cocaine prevented her from caring for any of her children. She had several convictions for narcotics possession and larceny and was incarcerated on several occasions. No evidence showed that respondent had taken steps to address her addiction or to stabilize her life. She did not appear at the permanent custody hearing, in spite of the fact that she had actual notice of the proceedings. The trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds that respondent could not provide proper care and custody of the child and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), that it was reasonably likely that the child would be harmed if returned to respondent's care, MCL 712A.19b(3)(j), and that respondent abandoned the child. MCL 712A.19b(3)(k)(i)². The evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *Trejo, supra*.

The petition for permanent custody did not cite MCL 712A.19b(3)(k) as a ground for termination of respondent's parental rights; however, respondent had adequate notice of the statutory ground in order to defend against termination under that subsection. The petition specifically alleged that respondent abandoned the child. No due process violation occurred. *In re Perry*, 193 Mich App 648, 651; 484 NW2d 768 (1992).

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray

² Respondent's assertion that the lower court could not find that she had abandoned the child because the child was not left for 28 days or more confuses the abandonment provision with the desertion provision. Compare MCL 712A.19(3)(a)(i) with MCL 712A.19(3)(k)(i).