STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of KVP, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RUTH POE,

Respondent-Appellant.

UNPUBLISHED
March 19, 2002

No. 229574
Oakland Circuit Court
Family Division
LC No. 99-629027-NA

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

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to the minor child under MCL 712A.19b(3). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that she was denied the effective assistance of counsel when her attorney advised her to admit that she abandoned her children while, in fact, she left the children in the care of her adult son. The principles of effective assistance of counsel developed in the context of criminal law apply by analogy in child protective proceedings. *In re EP*, 234 Mich App 582, 598; 595 NW2d 167 (1999), overruled on other grounds by *In re Trejo Minors*, 462 Mich 341, 353 n 10; 612 NW2d 407 (2000); *In re Trowbridge*, 155 Mich App 785, 786; 401 NW2d 65 (1986). However, the record in this case does not support respondent's claim. The petition did not allege that respondent abandoned her two minor children shortly before a house fire that resulted in the death of one child. Rather, it alleged that the children were left in the care of respondent's adult son when the fire broke out. Moreover, in admitting responsibility, respondent specifically stated that she left the children with her son. She did not admit abandoning them. Respondent's argument is without merit.

Respondent next contends that she was denied a fair trial because the family court refused to adjourn the termination hearing to accommodate respondent's release from jail and demonstrate her ability to be a good parent. We disagree. Contrary to this argument, respondent herself testified that she was on bond until her arrest in May 2000. She therefore had more than six months to show that she had regained her ability to parent. Further, our review of the family

court file shows that the court granted respondent's single request for an adjournment before the termination hearing.

Finally, respondent contends that there was insufficient evidence to terminate her parental rights. We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *Trejo, supra* at 356. If the court determines that the petitioner has proven by clear and convincing evidence one or more of the statutory grounds for termination, the court 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); *Trejo, supra* at 351-354. Here, the family court appears to have inappropriately found termination warranted under MCL 712A.19b(3)(c)(*i*). Nevertheless, the court reached the right result. *In the Matter of Slis*, 144 Mich App 678, 689; 375 NW2d 788 (1985).

The record established that respondent left her children with a burning candle, aware of the fire danger, to smoke crack cocaine. When she discovered her house was on fire, she sat in her car rather than trying to help her children. She subsequently spent the insurance proceeds on more cocaine. While respondent points to past success in staying drug free, there was no evidence that she was currently capable of doing so and strong evidence that she was unable to control her addiction or complete a treatment program. Termination of respondent's parental rights was therefore proper under MCL 712A.19b(g).

We affirm.

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