

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHAEL ROY COOPER, CODY
JAMES COOPER and STARR FALINA
MONTGOMERY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TAMMY SUE COOPER,

Respondent-Appellant,

and

ROY JOSEPH MONTGOMERY,

Respondent.

UNPUBLISHED

April 5, 2002

No. 234839

Lapeer Circuit Court

Family Division

LC No. 99-008076-NA

Before: K.F. Kelly, P.J. and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Respondent appeals as of right from the April 23, 2001 order terminating her parental rights to the minor children. The order was entered pursuant to a consent judgment after respondent voluntarily released her parental rights.¹ We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first contends that this Court should remand the case to the trial court for additional proceedings. She does not specify what those proceedings should be. To the extent that the trial court erred when it informed her that she had a right to appeal the termination order, this Court has already given sufficient relief by allowing respondent to proceed with her appeal.

¹ We initially dismissed respondent's appeal for want of jurisdiction because the final order was entered pursuant to a consent judgment. However, we later reinstated the appeal on a motion by respondent.

Respondent may have relied on the trial court's statement that she had the right to appeal, but she cannot plausibly argue that she acted in the belief that she would have another opportunity to demand a hearing on the petition to terminate her parental rights. On the contrary, the trial court advised her that her decision would be permanent. Accordingly, respondent is not entitled to any relief other than the opportunity to appeal.

Next, respondent argues that the trial court's findings were not sufficient to allow appellate review. We disagree. MCR 5.974(G) provides, in pertinent part:

(1) The court [terminating parental rights] shall state on the record or in writing its findings of fact and conclusions of law. Brief, definite, and pertinent findings and conclusions on contested matters are sufficient. . . .

* * *

(3) An order terminating parental rights under the juvenile code may not be entered unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order.

Here, the trial court's findings were sufficient to satisfy the MCR 5.974(G) requirement of "[b]rief, definite, and pertinent findings and conclusions." *In re Toler*, 193 Mich App 474, 476-477; 484 NW2d 672 (1992).

Finally, the trial court did not err in finding clear and convincing evidence of statutory grounds to terminate respondent's parental rights. Because the trial court entered the order pursuant to respondent's voluntary release, it was not obligated to cite a statutory basis for the termination order. *Id.* at 477. Nonetheless, the trial court's written findings clearly refer to MCL 712A.19b(3)(g), failure to provide proper care and custody without a reasonable likelihood that the parent will be able to provide within a reasonable time. The trial court did not clearly err in finding statutory grounds for termination under subsection 19b(3)(g). MCR 5.974(I), *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent's decision to release her parental rights can certainly be construed as an admission that she was unwilling or unable to provide proper care and custody. Furthermore, testimony at the preliminary hearing on the petition established that respondent continued to abuse substances and associate with a violent partner despite the two years of services she had received.

Because the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests, the trial court did not err in terminating her parental rights. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh