

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of DL, and QPL, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELISA PRUIETT,

Respondent-Appellant,

and

D.S. LOGAN,

Respondent.

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UNPUBLISHED

September 13, 2002

No. 240228

Saginaw Circuit Court

Family Division

LC No. 98-025184-NA

Before: Whitbeck, C.J., and Sawyer and Kelly, JJ.

PER CURIAM.

Respondent Elisa Pruiett appeals as of right the family court's order terminating her parental rights to two of her minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), and (g). Respondent D.S. Logan is not a party to this appeal. We affirm.

**I. Basic Facts And Procedural History**

Pruett has three minor children. The children first came to the attention of the Family Independence Agency (FIA) in 1998 after Pruiett and Logan allegedly tested positive for cocaine use and were living, illegally, with the children in a filthy home. The children were placed in temporary custody on June 22, 1998, but returned to their mother's care in August 1998. The children were again removed from Pruiett's home and placed in foster care in March 2000 after Pruiett was incarcerated and left the children with an inadequate caretaker. Pursuant to Pruiett's request, Roosevelt Cameron was appointed the children's permanent guardian. The family court terminated its jurisdiction on October 24, 2000.

However, Cameron petitioned to terminate his guardianship of the children in February 2001, because of the behavioral problems the two older children exhibited. The FIA then filed a supplemental petition alleging that Pruiett was homeless and her whereabouts unknown in

January 2001. The FIA added that arrest warrants had been issued for Pruiett and Logan, that her visitation with the children had been inconsistent, and that she sabotaged the children's guardianship placements.

On April 17, 2001, the family court held its first hearing to decide whether to exercise jurisdiction over the children. After the family court took judicial notice of the file, Pruiett's caseworker, Carol Hyzer, testified that, as of March 3, 2001, Pruiett's whereabouts were unknown. She had since learned that Pruiett resided with her mother in Louisiana. Pruiett had not contacted the children since Christmas 2000, and, at that time, Pruiett had been involved in a domestic violence incident and had not participated in substance abuse treatment.

Foster care worker Gregg Showalter testified that Pruiett contacted him in March 2001. Pruiett lived in Louisiana with her mother in a one bedroom apartment. Showalter told Pruiett's mother that she would need to find a larger apartment. Pruiett admitted that she had a substance abuse problem, but told him that she had been misdiagnosed in Michigan and that she was involved in mental health rather than substance abuse counseling. She had not provided verification of counseling. He also stated that Pruiett had outstanding Michigan warrants, issued in 1998, from probation violations involving drunk driving and shoplifting charges. The children had not lived with their mother since February 2000. The family court then took jurisdiction over the children after noting that it had previously found that Pruiett had failed to provide emotional, financial, or other support to the children, and that two guardianships had failed thus far. The family court also noted that Pruiett had been provided various services since 1998 with no success.

During a subsequent hearing on May 23, 2001, Pruiett's attorney stated that he had tried to contact Pruiett on three occasions, but he had not reached her. Consequently, the family court adjourned the hearing. When the hearing continued a few weeks later, Pruiett was not present and could not be contacted by the family court. The FIA's attorney indicated that the agency was waiting for a home study report concerning Pruiett's mother's home in Louisiana. The family court then ordered Pruiett to comply with the parent/agency treatment plan, specifically stating that, if Pruiett wanted custody of the children, she needed to deal with her substance abuse, domestic violence, housing problems, and follow through with mental health services. The family court was also concerned that Pruiett had failed to deal with her criminal issues and that it would not consider placement unless this had occurred.

Pruett's oldest child, JL, ran away from his foster home on June 23, 2001, joining Pruiett in Louisiana. The FIA filed the petition seeking to terminate Pruiett's parental rights on November 13, 2001. The petition alleged that Pruiett had not visited the children since March 2001, had not provided any financial or emotional support since at least December 2000, and had helped her oldest child flee the state. Further, Pruiett had failed to avail herself of services and continued to have outstanding warrants for her arrest.

At the hearing on February 6, 2002, Pruiett testified by telephone that she was living with her mother in Louisiana, JL was with her, and she did not intend to return to Michigan. She was unsure whether she informed Showalter when she moved. She conceded that she had not had contact with her other children since January 2001. Though she said that she had not sent them money for their support, she claimed that she had sent them gifts. Pruiett maintained that she had tried to contact Showalter, but he would not put her in contact with the children. She admitted

that she had called JL before he ran away, and that some of the calls were without JL's foster parents' knowledge. Pruiett said that she informed Showalter that JL was with her on one occasion when Showalter called her. She also admitted that there was an outstanding warrant for her arrest, but alleged that she could pay a fine to avoid incarceration, though she had not paid the fine. Pruiett admitted that she was unable to financially support herself. She also admitted that JL was not supposed to reside with her, yet she would not return him to Michigan. In her view, JL had chosen to be in Louisiana. She planned to have her mother or aunt care for her other children, and to adopt them if her parental rights were terminated. The FIA had not conducted a home study of Pruiett's mother's one-bedroom apartment, but Pruiett said that she and her mother were on a waiting list for a larger apartment.

On cross-examination, Pruiett maintained that she had left Michigan partly because of her mental and physical health problems. She presented evidence of her current mental health diagnosis and treatment. She was currently unemployed, but performed odd jobs. Pruiett admitted that she had a history of drug and alcohol abuse, and had attempted suicide. She said she was not involved in substance abuse treatment at the time, but had completed a program in Michigan. Pruiett also maintained that she had tried to contact Showalter by telephone numerous times without success. She also blamed her previous attorney for her lack of understanding of how to contact the court to gain visitation or other services. She admitted that she could not presently visit the children in Michigan and could not financially support them.

Johnnie Mae Baskin, JL's previous foster mother, testified that Pruiett had lied by saying that she was the child's aunt in order to have unauthorized telephone calls with him. JL also called Pruiett when Baskin was not present, which Baskin only learned of after receiving her telephone bill. Baskin called Pruiett after JL ran away in June 2001 and heard JL in the background. However, Pruiett initially denied her identity, maintained that he was not there, and stated that she was a foster parent. Pruiett, who had been calling daily before JL's disappearance, did not call the house after he left. Baskin alleged that JL told a friend that Pruiett sent him a bus ticket.

Lutheran Child and Family Service foster care worker Karen Majeske testified that DL told her that he did not want to live with Pruiett because she was probably still using drugs. Majeske maintained that she had tried to reach Pruiett several times in Louisiana by letter and telephone and had left telephone messages but Pruiett did not contact her or the children.

Carol Hyzer, a Children's Protective Services Worker, stated that Pruiett told the children during Christmas 2000 that they would be receiving gifts, but then disappeared. DL also told Hyzer that he had seen domestic violence while in Pruiett's care. DL testified that he did not want to return to Pruiett's care.

Gregg Showalter testified that he had been involved in the case since 1998. He indicated that the FIA had offered Pruiett a number of services, but Pruiett had failed to use them, stating that she would obtain mental health services in Louisiana. Pruiett was involved in a drug treatment program in Michigan, but did not complete the program. Pruiett sought telephone visitation in April 2001 and Showalter authorized this contact, but the Lutheran Child and Family Service worker could not contact Pruiett. He also stated that Pruiett did not contact him when JL arrived at her home, and did not tell him that JL was with her until October 24, 2001, despite the fact that they spoke a number of times during the intervening time. Showalter said

that Pruiett had not supported the children since December 2000. He also provided a list of Pruiett's six attempted telephone contacts with the agency from March 2001 until October 2001, described Pruiett's history with the agency, and essentially asserted that Pruiett had abandoned the children once a guardian had been appointed. Showalter admitted that the FIA had not performed a home study for Pruiett's mother's home.

Pruett's mother, Gay Dorsey, testified that she would be willing to consider a guardianship or adoption. She also stated that she had spoken with the apartment manager about renting a larger apartment just two days before the hearing. She had contacted the social services agency to request a home study, but nothing happened. Dorsey stated that Majeski never contacted her home and that Showalter never returned her calls. Dorsey also asserted that Pruiett told Showalter in June that JL had arrived at her home.

In rebuttal, Showalter said that Dorsey had had no contact with the children when they were previously in foster care or the guardianship.

Following the testimony, the family court found that clear and convincing evidence existed to terminate Pruiett's parental rights and provided its findings on the record, essentially agreeing with each allegation in the termination petition. The family court held that Pruiett had not availed herself of services, with the exception of mental health services in Louisiana. Pruiett continued to have an outstanding bench warrant for her arrest and had remained in Louisiana so she would not have to go to jail. The family court noted that Pruiett had been ordered to undergo substance abuse treatment as the result of her earlier conviction, but had failed to do so. She had not contacted the younger two children since March 21, 2001. However, she had had unauthorized contact with JL, knew that he would be running away from his foster care placement, and did not inform the FIA when he arrived at her home in Louisiana. The family court also found that she not provided financial or emotional support of the youngest children since at least December 2000.

In making these findings, the family court found the FIA's witnesses credible. It did not find credible Pruiett's testimony about the FIA's attempts to impede her efforts at reunification or contact, holding that Pruiett could have contacted the court, but failed to do so. The family court also found that Pruiett had assisted JL in his flight to Louisiana. The family court then concluded that the record supported termination under MCL 712A.19b(3)(a)(ii), (c)(i), and (g), and that it was in the children's best interests to terminate Pruiett's parental rights to the two younger children. The family court also found that the statutory grounds existed to terminate Pruiett's parental rights to JL, but held that it would refer the matter to the Louisiana authorities.

Pruett now challenges the family court's findings supporting termination. In her view, the FIA failed to show that her home in Louisiana was unsuitable for the children, that she continued to have a substance abuse problem, and that she would be unable to care for the children. She also apparently claims that the FIA refused to provide services to her because she

decided to remain in Louisiana, but that the FIA could have provided her these services through an unexplained “Interstate Compact.”<sup>1</sup>

## II. Standard Of Review

Appellate courts review a family court’s decision to terminate parental rights for clear error.<sup>2</sup>

## III. Clear And Convincing Evidence

The family court must find clear and convincing evidence on the record proving that at least one statutory ground for termination exists before it terminates parental rights.<sup>3</sup> Under MCL 712A.19b(3)(g), a family court must find clear and convincing evidence that “[t]he parent, without regard to intent, fail[ed] to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child’s age.” The record amply supports this ground for termination.

Pruett virtually abandoned her two youngest children, failing to provide them with any emotional or financial support since she lost custody. At the time of the termination hearing, she was unemployed and living in a one-bedroom house with two other people, which seems obviously inadequate for housing two additional children. She also admitted that she was not planning to care for the children on her own. Nor had she resolved the outstanding criminal charges against her. While she had evaded law enforcement by moving to Louisiana, the record provides no assurance that she would still remain free to care for her children in the future; the law was likely to catch up with her at some point. Nor had she completed the substance abuse treatment that she had been ordered to complete. One of her children evidently feared that she was still using drugs and, for that reason, did not want to live with her. On the basis of these and other factors, the family court had more than enough evidence to terminate Pruett’s parental rights under this statutory provision. Because the trial court needed only one ground for termination, we need not address whether the evidence was sufficient for the family court to terminate her parental rights under 712A.19b(3)(a)(ii) or (c)(i).<sup>4</sup>

Once there is clear and convincing evidence of at least one statutory ground for termination, the family court “must issue an order terminating parental rights unless there exists

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<sup>1</sup> Evidently, Pruett is referring to the interstate compact on the placement of children, MCL 3.711, *et. seq.* However, she does not name this act specifically, she does not discuss this issue in detail, and she does not provide examples or supporting authority regarding the FIA’s duties under the act. Pruett therefore abandoned this argument by failing to discuss it in greater detail and cite any supporting legal authority. *People v Watson*, 245 Mich App 572, 587; 629 NW2d 411 (2001).

<sup>2</sup> *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 5.974(I).

<sup>3</sup> MCL 712A.19b(3); see *In re IEM*, 233 Mich App 438, 450-451; 592 NW2d 751 (1999).

<sup>4</sup> See *Trejo*, *supra* at 350.

clear evidence, on the whole record, that termination is not in the child's best interests."<sup>5</sup> Pruiett, however, has not argued whether or how terminating her parental rights was clearly not in the children's best interests.<sup>6</sup> Thus, the family court did not err in terminating Pruiett's parental rights.

Affirmed.

/s/ William C. Whitbeck  
/s/ David H. Sawyer  
/s/ Kirsten Frank Kelly

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<sup>5</sup> *Id.* at 354; MCL 712A.19b(5).

<sup>6</sup> See *Trejo*, *supra* at 353-354; MCL 712A.19b(5).