

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of N.S., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TAMMY MORLEY and RICHARD MORLEY,

Respondents-Appellants.

UNPUBLISHED

September 20, 2002

No. 238950

Hillsdale Circuit Court

Family Division

LC No. 00-000519-NA

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

MEMORANDUM.

Respondents appeal as of right the trial court's order terminating their parental rights to their child pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (i), (j), and (m). We affirm.

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours Minors*, 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 evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 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.*, 356-357.

Respondents do not attempt to establish that the trial court's finding that petitioner established by clear and convincing evidence the existence of one or more statutory grounds for termination of their parental rights was clearly erroneous; rather, they argue only that termination of their parental rights was not in the child's best interests because visitation with the child was positive. Respondents' assertion is contrary to the evidence that they refused to cooperate with the visitation monitors, that a police presence was required at the visits, and that respondent Richard Morley threatened to do physical harm to the children of petitioner's staff members. The trial court did not clearly err in finding that termination of respondents' parental rights was warranted on the grounds noted above. Furthermore, the evidence did not show that termination of respondents' parental rights was not in the child's best interests. MCL 712A.19b(5).

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

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ Kirsten Frank Kelly