

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANKICA JURISIC, VALENTINA
JURISIC, and DENIS JURISIC, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ENVIRA JURISIC,

Respondent-Appellant,

and

SINISA JURISIC,

Respondent.

UNPUBLISHED

October 5, 2004

No. 253826

Clinton Circuit Court

Family Division

LC No. 02-015968-NA

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

PER CURIAM.

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

The trial court did not clearly err in determining that the statutory grounds for termination of parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent was from Bosnia and had resided in the United States since 1997. Respondent does not directly argue that the evidence was insufficient to establish the statutory grounds for termination, but rather argues that reunification efforts were meaningless because respondent's limited English and cultural differences prevented her from understanding what was required of her under her parent agency agreement. However, the testimony presented by service providers showed that respondent understood enough English to know what was required for return of the children, but chose not

to cooperate. Although cultural differences may have existed, providing basic necessities such as food, clothing, housing, hygiene instruction, and safety are expected of parents in any country.

The evidence showed that respondent received assistance from numerous agencies and organizations since 2000 and never rectified the conditions of homelessness, unemployment, and neglect that led to adjudication. Lack of progress in three to four years showed that there was no reasonable expectation that she would rectify the conditions and provide proper care or custody of the children within a reasonable time. It also showed that the children would be harmed through continued neglect if returned to respondent.

Further, the evidence failed to show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although the children were old enough to be bonded to respondent, and termination would break the family bond and result in loss of the children's cultural heritage, the children could not be safely returned to respondent.

Respondent also argues that her right to procedural due process was violated by lack of a translator at court proceedings and during provision of services. Respondent was entitled to procedural due process protections because the significant liberty interest in the companionship, care, custody and management of her children was at stake. *In re Brock*, 442 Mich 101, 109-110; 499 NW2d 752 (1993). Due process requires fundamental fairness, and in determining whether a violation has occurred under the particular facts of a case, this Court must balance the private interest at stake, the degree of risk of an erroneous deprivation of that interest, and the governmental interest involved. *Id.* at 111.

At times, this Court applies in child protective proceedings certain principles developed in the context of criminal law. *In re CR*, 250 Mich App 185; 646 NW2d 506 (2001). During the course of a criminal trial, due process requires that each question and answer be translated for a non-English speaking defendant in order to afford him the due process right to confront witnesses against him. *People v Cunningham*, 215 Mich App 652, 657; 546 NW2d 715 (1996). A termination proceeding would certainly be fundamentally unfair if a respondent could not understand what was being asked of her, or asked and answered by witnesses, because of the lack of a translator, and services would be meaningless if respondent did not understand what was required of her.

In the present case, however, respondent was not present at the termination hearing, and thus there is no merit in her argument that her right to due process was violated by lack of a translator at that proceeding. Respondent was present at other proceedings without a translator, and no translator was present during provision of services, but the evidence showed that respondent knew enough English and had a basic understanding of what was required of her for return of the children. She never requested a translator. Service providers testified that she understood them. The fact that she lied to the caseworker about her employment to pretend that she was meeting that requirement shows that she understood that employment was required. The evidence showed that termination was caused by respondent's lack of cooperation, not by lack of a translator.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper
/s/ Kirsten Frank Kelly