

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BAYINNA WHITSEY and
THERETIUS KNIGHT, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

YIN YIN ROSS,

Respondent-Appellant,

and

QUITMAN WHITSEY and THERETIUS
KNIGHT,

Respondents.

UNPUBLISHED

November 16, 2004

No. 250405

Muskegon Circuit Court

Family Division

LC No. 91-018349-NA

Before: Sawyer, P.J., and Gage and Owens, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children upon her execution of a voluntary release of her parental rights. We affirm.

Respondent-appellant argues that the trial court erred in terminating her parental rights based upon her voluntary release because it did not follow the procedures set forth in MCL 710.29(5) when determining whether respondent-appellant was releasing her rights knowingly and voluntarily. We disagree. This Court reviews the trial court's investigation of whether a respondent's voluntary release of parental rights is made voluntarily and knowingly for an abuse of discretion. *In re Blankenship*, 165 Mich App 706, 714; 418 NW2d 919 (1988).

Petitioner sought the involuntary termination of respondent-appellant's parental rights under MCL 712A.19b(3)(c), (g) and (j), alleging that respondent-appellant continued to use controlled substances and failed to maintain stable employment, housing and consistent visitation. At the termination hearing, respondent-appellant told the trial court that she believed that her parental rights were going to be terminated and signed a release of her parental rights. In doing so, respondent-appellant conceded that the trial court would be able to find a statutory basis for the termination of her parental rights and that the termination would not be clearly

contrary to the best interests of the children after the termination hearing. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). However, respondent-appellant's decision to consent to the termination of her parental rights did not transfer the proceeding from the juvenile code to the adoption code and the trial court was not required to follow the requirements set forth in MCL 710.29. *Id.*

A review of the record reveals that the trial court carefully and extensively investigated respondent-appellant's understanding of her parental rights and properly determined her willingness to release those rights. The trial court first questioned respondent-appellant and read the release form to her, asking if she understood and agreed with each paragraph. Respondent-appellant agreed with and admitted that she understood each paragraph that the trial court read. Accordingly, the trial court did not abuse its discretion in accepting respondent-appellant's voluntary release of parental rights.

Respondent-appellant also argues that the trial court should not have terminated her parental rights because it did not take into account the best interests of the child who was over five years of age at the time of the termination pursuant to MCL 710.29(6). We disagree. As discussed above, the trial court was operating under the juvenile code and was not obligated to follow the statutory requirements of MCL 710.29(6). Although the trial court did not expressly address the issue of the children's best interests pursuant to MCL 712A.19b(5), termination was required in this case because the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ David H. Sawyer
/s/ Hilda R. Gage

I concur in the result only.

/s/ Donald S. Owens