

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of EDWARD DARWIN PICKLE,
JR., RANDY LEE PICKLE, and BRANDY
JEANETTE VELASQUEZ, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JUAN CARLOS VELASQUEZ,

Respondent-Appellant,

and

TRACY MARIE PICKLE, a/k/a TRACY MARIE
SAIN, and EDWARD DARWIN PICKLE,

Respondents.

In the Matter of EDWARD DARWIN PICKLE,
JR., RANDY LEE PICKLE, and BRANDY
JEANETTE VELASQUEZ, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TRACY MARIE PICKLE, a/k/a TRACY MARIE
SAIN,

Respondent-Appellant,

and

UNPUBLISHED
December 16, 2004

No. 256218
Wayne Circuit Court
Family Division
LC No. 03-423132

No. 256287
Wayne Circuit Court
Family Division
LC No. 03-423132

EDWARD DARWIN PICKLE and JUAN
CARLOS VELASQUEZ,

Respondents.

Before: Markey, P.J., and Fitzgerald and Owens, JJ.

PER CURIAM.

In these consolidated appeals, respondent-appellant father appeals by right from the trial court order terminating his parental rights to his minor child under MCL 712A.19b(3)(a)(ii), (g), (j), and (k)(i). Respondent-appellant mother appeals by right from the same order terminating her parental rights to the minor children under MCL 712A.19b(3)(g) and (j). We affirm. We are deciding these appeals without oral argument pursuant to MCR 7.214(E).

As a preliminary matter, contrary to the minor children's assertion on appeal, respondent-appellant mother's appeal was timely filed because she timely filed a request for appointment of an attorney. See MCR 3.977(I)(2).

Both respondents-appellants argue that termination was inappropriate because petitioner failed to make sufficient effort to contact them and offer services, yet, petitioner sought termination in the initial petition. When the original petition seeks termination of parental rights, and there is sufficient evidence to establish (1) a statutory ground for jurisdiction, under MCL 712A.2(b), and (2) a statutory ground for termination, under MCL 712A.19b(3), the trial court must terminate the respondent's rights at the initial disposition hearing and order that no further reunification efforts be made, unless termination is clearly against the child's best interests. MCL 712A.19b(4) and (5); MCR 3.977(E).

Although there are circumstances under which the petitioner must seek termination in the original petition, the decision is otherwise left to the petitioner's discretion. See MCL 722.638(1) and (2). Further, neither respondent-appellant challenged the trial court's order that reunification efforts were unnecessary; therefore, that particular issue was not preserved for review. *In re SD*, 236 Mich App 240, 243 n 2; 599 NW2d 772 (1999). Respondents-appellants also failed to address each statutory ground for termination in their briefs on appeal.

A failure to provide services could be relevant to the trial court's determination whether a respondent could provide proper care and custody within a reasonable time, under MCL 712A.19b(3)(g). See *In re Newman*, 189 Mich App 61, 68-69, 70; 472 NW2d 38 (1991). But, in the present case, workers gave respondents-appellants their telephone numbers, offered to provide services, and attempted to obtain respondents-appellants' contact information. Respondents-appellants' failed to pursue services or demonstrate they had appropriate housing. They did not even visit their children, and the harmful conditions under which they were living constituted sufficient evidence that they could not provide proper care and custody within a reasonable time, under MCL 712A.19b(3)(g).

The children were also likely to be harmed if returned, under MCL 712A.19b(3)(j), for the same reasons. Regardless whether petitioner provided sufficient evidence of subsection

(k)(i), petitioner sufficiently established at least one statutory ground which was sufficient basis for termination of respondents-appellants' parental rights. MCL 712A.19b(3), (5); *In re Trejo Minors*, 462 Mich 341, 364-365; 612 NW2d 407 (2000).

Respondent-appellant father also argues on appeal that the trial court erred in its best interests analysis. A trial court is required to terminate parental rights after finding a statutory ground, unless it determines that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, *supra* at 352-353. There is no specific burden on either party to present evidence of the child's best interests; rather, the trial court should weigh all evidence available. *Id.* at 354. The trial court is not required to apply the child custody best interest factors to termination cases. *Id.* at 357.

In the present case, respondents-appellants kept their children in dangerous living conditions and made no effort to regain or even visit them. They presented no evidence that termination was against the children's best interests. The trial court did not err when it held that termination was not clearly against the children's best interests and terminated respondents-appellants' parental rights.

We affirm.

/s/ Jane E. Markey
/s/ E. Thomas Fitzgerald
/s/ Donald S. Owens