

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

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In the Matter of KAYLA SMITH, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TIM SMITH,

Respondent-Appellant.

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UNPUBLISHED

July 31, 2007

No. 273999

Gogebic Circuit Court

Family Division

LC No. 04-000060-NA

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In the Matter of MEGAN KORHONEN, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LAURA SMITH,

Respondent-Appellant.

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No. 274000

Gogebic Circuit Court

Family Division

LC No. 04-000059-NA

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In the Matter of KAYLA SMITH, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LAURA SMITH,

Respondent-Appellant.

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No. 274001

Gogebic Circuit Court

Family Division

LC No. 04-000060-NA

Before: Murphy, P.J., and Zahra and Servitto, JJ.

PER CURIAM.

In these consolidated appeals, respondent-appellant Laura Smith (Laura) appeals as of right from the trial court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Respondent-appellant Tim Smith (Tim) appeals as of right from an order terminating his parental rights to his daughter, Kayla Smith, pursuant to the same statutory grounds. Because the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence, and the evidence did not show that termination of respondents' parental rights was clearly not in the children's best interests, we affirm.

We review the trial court's finding that a statutory ground for termination was proven by clear and convincing evidence for clear error, giving deference to the trial court's superior opportunity to determine the weight and credibility of witnesses who appear before it. MCR 3.977(J); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Having considered each of respondents-appellants' challenges to the trial court's opinion in the case at bar, we find no basis for reversing its finding that the statutory grounds for termination were proven by clear and convincing evidence.

The trial court could reasonably conclude from the evidence that the domestic abusive relationship that led to the adjudication continued to exist and would not be rectified within a reasonable time considering the ages of the children. The evidence demonstrated that the respondents have a long history of domestic abuse, with several occurrences requiring police involvement. The incident in January 2006, at which the Families First Worker observed Tim's verbal abuse of Laura and saw physical evidence in the home that was consistent with Laura's report of another domestic violence incident, along with evidence of Laura's later undertaking to separate from Tim, recant her report, and reunite with Tim, confirmed that respondents-appellants were continuing to follow their past pattern of conduct, notwithstanding services provided to them while the children were temporary court wards. Neither Laura's mental health history nor the fact that Tim filed a divorce action after petitioner sought a termination of parental rights precluded the trial court from finding that respondents-appellants would continue their domestically abusive relationship, particularly given the testimony concerning a possible relationship in the future between the parties. Giving appropriate deference to the trial court's findings, we conclude that the trial court did not clearly err when determining that the evidence of respondents-appellants' ongoing domestic abusive relationship established that subsection (c)(i), as well as subsections (g) and (j), were proven by clear and convincing evidence.

We reject respondents-appellants' argument that their respective compliance with provisions of the parenting-agency agreement supports a different result. Although compliance with a parent-agency agreement constitutes evidence of a parent's ability to provide proper care and custody, *In re JK*, *supra* at 214, an inherent and necessary part of a treatment plan in a child protection proceeding is that the parent benefit from services. *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005). The trial court, thus, appropriately declined to treat the parent-agency agreement as an automatic bar to termination, focusing instead on whether respondents-appellants would continue to engage in domestic abusive relationship involving physical and

verbal abuse. Further, we hold that Laura has established nothing about her January 31, 2006, agreement with the foster care worker that could preclude a termination of her parental rights to the children under a “contract theory.”

Contrary to Tim’s argument on appeal, the trial court did not find clear and convincing evidence that his son was sexually abusive toward either of the two girls. To the contrary, as clarified by the trial court when denying a rehearing of the order terminating parental rights, it is clear that the trial court could not determine whether sexual abuse actually occurred. Further, because we are satisfied that the trial court would have reached the same result in this case, even without a consideration of the evidence of the sexual allegations directed at Tim’s son, we find it unnecessary to address respondents-appellants’ respective arguments regarding the trial court’s consideration of this evidence. Any error was harmless because respondents-appellants’ ongoing domestic abusive relationship supports the trial court’s finding that each of the three statutory grounds for termination were proven. MCR 2.613(A); MCR 3.902; see also *In re Gazella*, *supra* at 675 (reversal not merited based on harmless error).

We reject Laura’s challenge to the trial court’s findings based on the divorce judgment obtained shortly after the trial court entered its order to terminate parental rights. The divorce judgment was only relevant to the trial court’s denial of respondents-appellants’ respective motions for rehearing and, based on our review of the record, the trial court did not abuse its discretion in denying a rehearing. MCR 3.992(A); *In re Toler*, 193 Mich App 474, 478; 484 NW2d 672 (1992). Further, we reject Laura’s claim that the trial court erred by failing to address evidence concerning her parents’ conduct in its findings. The trial court’s findings were sufficient. MCR 3.977(H)(1); and see *Triple E Produce Corp v Mastronardi Produce Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995).

In conclusion while only one statutory ground for termination was required under MCL 712A.19b(3), we uphold the trial court’s finding as to each of three statutory grounds for both respondents-appellants. Further, the evidence does not establish that termination was clearly not in each child’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). Therefore, we uphold the trial court’s order termination respondents-appellants’ parental rights.

Finally, we decline to consider Tim’s claim that the trial court erred in denying his motion for psychological evaluations of family members. Our review of the motion made at the termination hearing indicates that the trial court did not totally foreclose such an evaluation, but rather imposed conditions and limitations on any evaluation, such as to require counsel to submit a proposed order that would not delay the case and provide an appropriate method of payment. Moreover, we deem any challenge to the trial court’s ruling to be abandoned because it is insufficiently briefed. A mere statement of position, without citation to authority, is insufficient to bring an issue before this Court. See *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

Affirmed.

/s/ William B. Murphy  
/s/ Brian K. Zahra  
/s/ Deborah A. Servitto