

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

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In the Matter of KRISTENA MARIE ALBAND,  
Minor.

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DEPARTMENT OF HUMAN SERVICES

Petitioner-Appellee,

v

RUTH ALBAND,

Respondent-Appellant.

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UNPUBLISHED  
September 18, 2008

No. 283904  
Macomb Circuit Court  
Family Division  
LC No. 2007-000155-NA

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In the Matter of THOMAS KELLY ALBAND,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

RUTH ALBAND,

Respondent-Appellant.

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No. 283905  
Macomb Circuit Court  
Family Division  
LC No. 2007-000156-NA

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In the Matter of CHARLES TEDMAN ALBAND  
III, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

No. 283906  
Macomb Circuit Court

RUTH ALBAND,

Respondent-Appellant.

Family Division

LC No. 2007-000154-NA

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Before: Schuette, P.J., and Zahra and Owens, JJ.

PER CURIAM.

In these consolidated appeals, 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.

The trial court did not clearly err in determining that the statutory grounds for termination of respondent's parental rights had been established by clear and convincing evidence. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The issues that led to adjudication were respondent's lack of suitable housing for the minor children and her mental instability. Petitioner had been providing services to respondent for six months before the children were removed from her care, and after the removal, petitioner provided a parent-agency agreement and referrals for services for another year. Respondent did not attend individual counseling when it was first offered to her and attended only four or five sessions just before the termination hearing. Respondent had been prescribed Prozac for her depression and anxiety, but she did not take it, claiming that she had no way to get it. By the time of the termination trial, respondent had been evicted from her home, did not have stable income, and was living with two different friends. In addition, respondent did not fully comply with her obligation to call in to determine when she needed to provide drug screens and did not attend all of the scheduled screens. She did complete parenting classes, but only many months after referrals were made. Although respondent argues otherwise on appeal, the trial court did take into account that none of the drug screens that respondent provided were positive, that she completed a psychological and a CARE assessment (although she did not follow through with the recommendations of the evaluators), and that she did her best to visit with the minor children and attend some of their medical and dental appointments.

The issues that the trial court was most concerned with were respondent's mental health issues and her lack of a legal source of income and a stable home. A year after the minor children were removed from respondent's care and custody, and 18 months after respondent began receiving services, these issues had not been resolved. We find that the trial court did not err when it found clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i). The conditions that led to adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the ages of the minor children, who were 13, 11, and 7 years old. Further, based on the facts that respondent did not have a legal source of income, a stable home for the children, and was mentally unstable, the trial court did not clearly err when it found that the evidence established MCL 712A.19b(3)(g) and (j) as well.

With regard to respondent's argument that the trial court erred in finding that petitioner made reasonable efforts to prevent removal and to rectify the conditions that led to removal, this Court finds no error. Generally, petitioner must make reasonable efforts to reunite a respondent and her children through a treatment plan and referrals. *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005); see also MCL 712A.18f. In this case, there was overwhelming evidence of petitioner's efforts to provide services to respondent. Services had been offered for six months before the filing of the original petition to remove the minor children from the home and throughout the termination proceedings. Petitioner provided numerous referrals for services that were either underutilized or ignored. Petitioner made it clear to respondent that there were options if she needed assistance with anything, and on several occasions, the trial court made it clear to respondent that it was petitioner's obligation to provide referrals and respondent's obligation to follow through with the referrals and to show the court that she was in compliance with the parent-agency agreement. Accordingly, the trial court's determination that petitioner engaged in reasonable efforts was not clearly erroneous.

Respondent also argues that she has a constitutional right to the care and custody of her children. However, the law is clear that, once a ground under MCL 712A.19b(3) is proven by clear and convincing evidence, "the parent's interest in the companionship, care, and custody of the child gives way to the state's interest in the child's protection." *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Furthermore, respondent's argument that natural parents should have custody of their children, if possible, ignores the record in this case. Respondent was given an opportunity to comply with a parent-agency agreement and show the trial court that a finding under MCL 712A.19b(3) should not be made. The trial court found that respondent did not substantially comply with the terms of the parent-agency agreement, and the record supports this determination.

Finally, respondent's argument that children must be placed in the most family-like setting that will meet the needs of the children and the state is misplaced. MCR 3.965(C)(2), rather than MCR 5.902(B) cited by respondent, addresses the court's obligation to place the child, when removed from the parent's care, in the most family-like setting. In this case, the minor children were placed with their paternal aunt and uncle, and the trial court clearly complied with the court rule.

Affirmed.

/s/ Bill Schuette  
/s/ Brian K. Zahra  
/s/ Donald S. Owens