

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of THOMAS GARY HOWLEY,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

REBECCA ADRIANNA WARREN and JOHN  
ROBERT HOWLEY,

Respondents-Appellants.

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UNPUBLISHED

September 10, 2009

No. 290718

Berrien Circuit Court

Family Division

LC No. 2008-000023-NA

Before: M. J. Kelly, P.J., and K. F. Kelly and Shapiro, JJ.

MEMORANDUM.

Respondents appeal as of right from a circuit court order terminating their parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). Because we conclude that there were no errors warranting relief, we affirm. We have decided this appeal without oral argument under MCR 7.214(E).

The trial court did not clearly err in finding that §§ 19b(3)(c)(i), (g), and (j) were each established by clear and convincing evidence. MCR 3.977(G)(3); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Both parents have serious problems with substance abuse, which they are unwilling or unable to overcome. Respondent Warren continued to abuse drugs despite suffering a life-threatening overdose. Respondent Howley continued to abuse drugs and was later sentenced to 18 months to 10 years in prison for manufacturing methamphetamines. Because grounds for termination were established under §§ 19b(3)(c)(i), (g), and (j), any error in relying on § 19b(3)(a)(ii) was harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Further, the evidence on the whole record showed that termination of respondents' parental rights was in the child's best interests. MCL 712A.19b(5). Therefore, the trial court did not err in terminating respondent's parental rights to the child. *In re Trejo, supra* at 356-357.

We also reject respondents' claim that the trial court erred by failing to consider the maternal grandparents' request for guardianship. Respondent Warren's counsel advised the court that Warren's mother wanted to adopt the child, "not do a guardianship." Respondent Howley's counsel similarly requested that the court "place the child right now with the grandmother, today, and that it be for adoption." The record is abundantly clear that the request

was not for guardianship, but for adoption—a process that was outside the realm of the hearing. Because guardianship was not a contested issue, the court was not required to consider that issue.

Affirmed.

/s/ Michael J. Kelly  
/s/ Kirsten Frank Kelly  
/s/ Douglas B. Shapiro