STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of SHANNON MARIE RUDOLPH, KELVON DESHAWN FENNER, SHANTELL ROMELL TRAMMER, and JAVON DESHAWN EARL, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TRACY CHARESE RUDOLPH, a/k/a TRACEY CHARESE RUDOLPH and TRACY CHARISE RUDLOPH, and LANDOREN T. TRAMMER,

Respondents-Appellants,

and

KENNETH JOSEPH EARL, CARLTON DOSSIER, COREY RAYMON DAWSON, and KEVIN FENNER,

Respondents.

UNPUBLISHED
September 25, 1998

Nos. 206593; 206745
Wayne Juvenile Court
LC No. 94-313395

Before: Hood, P.J., and Griffin and O'Connell, JJ.

PER CURIAM.

In Docket No. 206593, respondent Rudolph appeals as of right from the juvenile court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j). In Docket No. 206745, respondent Trammer appeals as of right from the juvenile court order terminating his parental rights to Shantell Trammer under MCL 712A.19b(3)(c)(i), (g), (h) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g), (h) and (j). We affirm.

The juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence with respect to both respondents. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the juvenile court did not err in terminating respondents' parental rights, inasmuch as both respondents failed to demonstrate that termination of their parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997).

We are not persuaded by Trammer's argument that the juvenile court's failure to obtain his physical presence at the termination hearing resulted in a constitutional violation of his right to due process. US Const, Am XIV; Const 1963, art 1, § 17; *People v Capriccioso*, 207 Mich App 100, 102; 523 NW2d 846 (1994). Contrary to the implications of Trammer's argument, a respondent in a termination proceeding does not have an absolute right to be present physically at the proceeding. *In re Vasquez*, 199 Mich App 44, 48; 501 NW2d 231 (1993).

Although Trammer's interest in his parental rights is "a compelling one," *id*. at 48, the risk of an erroneous deprivation of his parental rights was not increased by the failure to obtain his physical presence at the hearing. Trammer was represented by an able attorney who cross-examined the witnesses presented against his client. He was also provided with a telephone link to the courtroom, enabling him to hear all of the witnesses' testimony and to fully converse with his attorney and the court during the hearing. He was accorded the opportunity to provide his attorney and the court with information valuable to his defense and to otherwise participate meaningfully in the termination hearing. The fact that he was not physically present in the courtroom did not effect the outcome of this case.

We also agree with petitioner that the state had an interest in avoiding the risk of procuring Trammer's physical presence at the termination hearing. The termination petition alleged that Trammer, who was incarcerated, had been convicted of escape for walking away from a corrections center in which he had been placed. Because Trammer was an apparent escape risk, the state had an important interest in keeping him incarcerated during the termination hearing.

Because, under the circumstances, Trammer's physical absence from the hearing did not increase the chance of an erroneous deprivation of his parental rights and the state had an interest in preventing Trammer from being presented with another opportunity for escape, the juvenile court did not violate Trammer's right to due process by failing to obtain his physical presence at the termination hearing. *Mathews v Eldridge*, 424 US 319, 335; 96 S Ct 893; 47 L Ed 2d 18 (1976); *In re Vasquez*, *supra*.

Next, respondent Rudolph contends that the juvenile court failed to make adequate findings of fact to support its decision to terminate her parental rights. We disagree. As to Rudolph, the court both stated on the records its findings and conclusions of law and incorporated the findings and conclusions of the juvenile court referee as the court's own. Thus, Rudolph's position that the court failed to make findings and conclusions, as MCR 2.517(A)(1) mandates, is incorrect. See *Lud v Howard*, 161 Mich App 603, 614; 411 NW2d 792 (1987). Further, our review of the court's findings and conclusions reveals them to be brief, definite, and pertinent to the issues contested at the termination hearing. Therefore, the court's findings and conclusions are sufficient. MCR 2.517(A)(2).

Rudolph also contends that the juvenile court was biased against her and impermissibly allocated the burden of proving her parental fitness. We find no indication from the record that the court impermissibly shifted the burden of proof to Rudolph. Similarly, the record does not support Rudolph's allegations of bias. In any event, Rudolph was required to pursue her claim of disqualification below in order to preserve it for appeal. *In re Schmeltzer*, 175 Mich App 666, 673; 438 NW2d 866 (1989). She did not raise this issue in the lower court, and thus failed to preserve it for appeal.

Affirmed.

/s/ Harold Hood
/s/ Richard Allen Griffin
/s/ Peter D. O'Connell