

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALLISON POMEROY, RYAN C.
POMEROY, and KELSEY N. POMEROY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CONSTANCE M. FALING, a/k/a CONNIE
FALING,

Respondent-Appellant,

and

BRIAN FALING

Respondent.

UNPUBLISHED

March 10, 2000

No. 217536

Jackson Circuit Court

Family Division

LC No. 97-019258-NA

Before: Holbrook, Jr., P.J., and Smolenski and Collins, JJ.

SMOLENSKI, J. (concurring in part and dissenting in part).

I concur with the majority's conclusion that the family court found clear and convincing evidence to support termination of appellant's parental rights with respect to Allison Pomeroy pursuant to MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). However, I respectfully dissent from the majority's conclusion that the trial court erred in terminating appellant's parental rights with respect to Ryan and Kelsey Pomeroy. The condition leading to the initial adjudication was appellant's educational neglect of her four children, which arose from the children's excessive absenteeism from school. In my opinion, appellant's failure to correct the educational neglect with regard to Allison constitutes clear and convincing evidence that there is no reasonable likelihood that the conditions will be rectified with regard to Ryan and Kelsey. Accordingly, I would affirm the trial court's order terminating appellant's parental rights with regard to all three children.

/s/ Michael R. Smolenski