

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Nicole Brianna Stone, a Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TERESA STONE,

Respondent-Appellant,

and

ARTHUR JORDAN

Respondent.

UNPUBLISHED

February 13, 2001

No. 225927

Macomb Circuit Court

Family Division

LC No. 97-044847

Before: Hood, P.J., and Doctoroff and K.F. Kelly, JJ.

MEMORANDUM.

Respondent Theresa Stone appeals as of right from an order of the Macomb Circuit Court, Family Division, terminating her parental rights to her child Nicole Brianna Stone (born 5/31/96), pursuant to MCL 712A.19b(3)(a)(ii) and (g); MSA 27.3178(598.19b)(3)(a)(ii) and (g).¹ We affirm.

We review a family court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). If a family court determines that the petitioner has proven by clear and convincing evidence one or more statutory grounds for termination, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *Trejo, supra* at 351-354.

¹ The court also terminated the parental rights of the child's father, Arthur Jordan. He has not appealed the termination.

Here, we find no error in the family court's conclusion that respondent abandoned Nicole for more than 91 days. MCL 712A.19b(3)(a)(ii); MSA 27.3178(598.19b)(3)(a)(ii). Petitioner presented undisputed evidence that respondent made no attempt to visit with her child or even inquire about the child's condition between April 1999 and August 1999. We also agree that petitioner proved by clear and convincing evidence that respondent, who was effectively homeless during that period, failed to provide Nicole with proper care or custody. MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). Further, respondent's long history of drug abuse and criminal activity, combined with respondent's own testimony that it would take another year to "get herself together," supported the court's finding that there was no reasonable expectation that respondent would be able to provide proper care or custody for Nicole within a reasonable time considering the child's age.

We also reject respondent's argument that she was denied due process. The record shows that respondent was given notice of all of the hearings in the matter, and respondent was present at the termination hearing and was represented by counsel. Further, we find no merit to respondent's argument that she did not have the opportunity to meet petitioner's requirements in order to regain custody because she was not provided with a written copy of the parent agency agreement. The evidence showed that respondent did not receive a copy of the agreement because the foster care worker could not locate her. It is also clear from the record that respondent was informed of the first requirement in the agreement, that she complete an inpatient drug treatment program, and she failed to complete this initial requirement. Further, respondent admitted that she was aware of her requirements because of her previous experience with a neglect petition.

Finally, we disagree with respondent's argument that termination of her parental rights was clearly not in Nicole's best interests. Other than her own assertions of love and good intentions for her child, respondent presented no evidence to show how terminating her rights would be against Nicole's best interests. To the contrary, the evidence showed that at the time of the termination hearing, Nicole had been in foster care for more than two years. Further, the foster care worker testified that Nicole was afraid of her mother and did not want to visit her. We find no error in the family court's finding that termination was not clearly contrary to the child's best interests.

Affirmed.

/s/ Harold Hood
/s/ Martin M. Doctoroff
/s/ Kirsten Frank Kelly