

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

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In the Matter of JENNIFER LEE ANN LACROIX  
and WILLIAM TELL LACROIX, Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellee,

v

MARY ANN CIESLUK, a/k/a MARY ANN  
HAYES,

Respondent-Appellant,

and

LAWRENCE MICHAEL LACROIX,  
  
Respondent.

UNPUBLISHED  
February 20, 2001

No. 225012  
Wayne Circuit Court  
Family Division  
LC No. 89-282140

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In the Matter of JENNIFER LEE ANN LACROIX  
and WILLIAM TELL LACROIX, Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellee,

v

LAWRENCE MICHAEL LACROIX,  
  
Respondent-Appellant,

and

No. 225437  
Wayne Circuit Court  
Family Division  
LC No. 89-282140



MARY ANN CIESLUK, a/k/a MARY ANN  
HAYES,

Respondent.

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Before: Whitbeck, P.J., and Murphy and Cooper, JJ.

PER CURIAM.

Respondents appeal as of right from an order terminating their parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (b)(i), (b)(ii), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(a)(ii), (b)(ii), (c)(i), (g) and (j). We affirm.

This matter was heard by a referee whose recommendation to the family court judge was adopted pursuant to MCR 5.991 and MCL 712A.10; MSA 27.3178 (598.10). Respondent Mary Ann Ciesluk's (hereafter "respondent-mother") sole claim is that the statutory grounds for termination were not sufficiently proven. Respondent-mother did not object to the sufficiency of the evidence at the December 9, 1999 termination hearing. However, a party's failure to object does not preclude this Court's review. MCR 5.993. Family court decisions that terminate parental rights are reviewable for clear error. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

The case history in this matter dates back to December 1989, when the children, who were then 1-1/2 years old and six months old respectively, were taken into protective custody when respondent-mother was arrested for disturbing the peace and outstanding warrants for drunk driving. While in protective custody, the children were placed with a relative who was unable to physically plan for the children. Since respondent Lawrence Lacroix (hereafter "respondent-father") failed to support or visit the children, they were consequently placed in foster care. The mother continued to have difficulty with sobriety and suitable housing.

Respondent-mother was given extended visitation with the children in January 1991. However, the children were returned to foster care in September 1991 for reasons that were not documented in the record. At that time respondent-mother reported that she had reunited with respondent-father. In April 1992, a referee found that respondent-mother was not complying with her parent/agency agreement to obtain drug treatment and submit drug screens. The relationship between respondent-mother and respondent-father apparently ended. However, respondent-father expressed an interest in providing for the children but did not have housing at the time. By March 1993, respondent-father completed his parent/agency agreement. The children were released to him and jurisdiction was terminated. The record again is not well documented from March 1993 to July 1995. However, the children were eventually removed from respondent-father and placed with respondent-mother.

In July 1995, respondent-mother admitted that the children were found wandering on a major thoroughfare at 3:30 in the morning. As a result of a 1995 petition for neglect, respondent-mother also admitted that respondent-father had sexually abused the children, while they were in



his care, and that he no longer visited or supported them. Respondent-mother admitted to her history of neglecting the children, indicated she still had problems with substance abuse, and still did not have suitable housing. Nonetheless, in December 1995, respondent-mother was again granted unsupervised visits with the children. Respondent-father was denied visitation as a result of the July 1995 hearing.

In April 1996, respondent-mother was ordered to attend weekly Alcoholic's Anonymous (AA) meetings and attend therapy. During this time the children were placed with their paternal aunt but respondent-mother was allowed to reside in the same home. At the next review hearing in July 1996, respondent-mother could not be located. Periodic review hearings in 1997 and 1998 resulted in the children having some extended overnight visitation with respondent-mother, who had completed a drug treatment program and began to attend AA meetings. However, these unsupervised visits ended when respondent-mother was evicted from her housing on February 27, 1998.

By the April 1998 review hearing, respondent-mother again lapsed from her program and failed to submit regular drug screens or document attendance at AA meetings. In June 1998, she tested positive for marijuana and received a probation violation in a criminal matter. At a hearing on October 26, 1998, respondent-mother's whereabouts were unknown. On December 23, 1998, a petition was filed that alleged that the whereabouts of both respondents were unknown.

A formal termination hearing, which is the subject of this appeal, was held on December 9, 1999. Respondent-mother appeared at the hearing. Respondent father was served with notice through publication and did not appear. Testimony at the hearing indicated that respondent-mother provided only eleven of her required weekly drug screens in 1998, six of which were positive for marijuana. Respondent-mother had seven different addresses the most extended period of which was for three or four months. Moreover in 1998, respondent-mother, who was allowed weekly visits with her children, attended only five visits for the entire year. After the filing of the petition for termination in September 1999, respondent-mother was not permitted any visitation.

The respondent-mother's claim that statutory grounds were not proven is completely without merit. Unfortunately for these children, these grounds were satisfied many times over. The instances of neglect and abuse provided in this opinion are by no means comprehensive as this neglect case has been ongoing for eleven years.

Thus, we conclude that the statutory grounds for desertion, MCL 712A.19(b)(3)(a)(ii); MSA 27.3178(598.19b)(3)(a)(ii), failure to prevent abuse, MCL 712A.19(b)(3)(b)(ii); MSA, 27.3178(598.19b)(3)(b)(ii), and failure to provide proper care or custody, MCL 712A.19(b)(3)(g); MSA, 27.3178(598.19b)(3)(g), were established by clear and convincing evidence. Moreover, § 19b(3)(b)(ii) was established by respondent-mother's own admissions. The petitioner for the termination of parental rights only bears the burden of proving one ground for termination. *In re Sours, supra* at 632-633. We are satisfied that the referee did not err in finding that at least one of the statutory grounds for termination was established by clear and convincing evidence. MCR 5.974(i); *In re Sours, supra*. We further conclude that respondent-mother has not established any error in the referee's recommendation that parental rights be



terminated under the best interests provision of MCL 712A.19b(5); MSA 27.3178(598.19b)(5). *In re Trejo*, 462 Mich 341; 612 NW2d 407 (2000).

Respondent-father's sole claim is that the family court lacked jurisdiction to terminate his parental rights. Because this claim was not raised in the family court, we will review it for plain error affecting respondent-father's substantial rights. Cf. *In re Snyder*, 223 Mich App 85, 92; 566 NW2d 18 (1997), and see *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). Looking to the applicable statutory requirements, rather than MCR 5.920, to assess respondent-father's claim of a jurisdictional defect, *In re Adair*, 191 Mich App 710; 478 NW2d 667 (1991); *In re Brown*, 149 Mich App 529; 386 NW2d 577 (1986), we conclude that respondent-father has not shown plain error. The record reflects that the notice by publication satisfied the requirements of MCL 712A.13; MSA 27.3178(598.13). Therefore, the order terminating respondent-father's parental rights is binding on respondent-father. MCL 712A.18(4); MSA 27.3178(598.18)(4); *In re Mayfield*, 198 Mich App 226, 233; 497 NW2d 578 (1993).

Affirmed.

/s/ William C. Whitbeck

/s/ William B. Murphy

/s/ Jessica R. Cooper