

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DUSTIN SHELBY KOSMALSKI,
NICHOLAS MICHAEL KOSMALSKI, EMILY
MICHELE KOSMALSKI and MATTHEW
NOLAN PILON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHELE JOYCE KOSMALSKI,

Respondent-Appellant,

and

ANTHONY MICHAEL PILON,

Respondent.

UNPUBLISHED
February 23, 2001

No. 225494
Wayne Circuit Court
Family Division
LC No. 98-365571

Before: Meter, P.J., and Neff and O'Connell, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from a family court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (g) and (j). This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Respondent-appellant's sole argument on appeal is that the family court failed to comply with MCL 712A.13a(11); MSA 27.3178(598.13a)(11) when it suspended her parenting time for failing to comply with the treatment plan. While we agree that the court failed to comply with the statute before suspending parenting time, we conclude that the error was harmless. Indeed, respondent-appellant does not challenge the family court's findings of fact in support of its decision to terminate parental rights, and those findings amply indicate that the decision to terminate parental rights was based on factors unrelated to the lack of visitation during the brief

period in question. See *In re Trejo Minors*, 462 Mich 341, 344, 355; 612 NW2d 407 (2000) (indicating that once a statutory basis for termination has been proven by clear and convincing evidence, the court *must* terminate parental rights unless the court finds that termination is clearly not in the best interests of the child). Moreover, we note that respondent could have sought judicial review of the referee's order pursuant to MCR 5.991(A) but did not do so. Therefore, we conclude that reversal is not warranted.

Affirmed.

/s/ Patrick M. Meter

/s/ Janet T. Neff

/s/ Peter D. O'Connell