

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of T.J., S.J., H.J., and P.J., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

SCOTT JONES,

Respondent-Appellant,

and

LISA DEMPSEY,

Respondent.

UNPUBLISHED

December 18, 2001

No. 233607

Kalamazoo Circuit Court

Family Division

LC No. 99-000153-NA

Before: Wilder, P.J., and Griffin and Smolenski, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm.

In a termination proceeding, the petitioner bears the burden of demonstrating at least one statutory basis for termination, by clear and convincing evidence. MCR 5.974(F)(3); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). Once that statutory basis for termination is shown, the trial court must terminate parental rights unless it finds that doing so is clearly not in the children's best interests. MCL 712A.19b(5); MCR 5.974(F)(3); *Trejo, supra* at 344. This Court reviews for clear error both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the trial court's best interest finding. *Id.* at 356-357; MCR 5.974(I).

In the present case, the trial court determined that the statutory grounds for termination had been proven by clear and convincing evidence. However, the trial court did not immediately enter an order terminating respondent-appellant's parental rights. Instead, the trial court stayed entry of the termination order for ninety days, based on respondent-appellant's promise to comply with certain conditions, pursuant to *In re Adrianson*, 105 Mich App 300; 306 NW2d 487

(1981).¹ The trial court's dispositional order stated that respondent-appellant's failure to comply with the agreement's terms would result in termination of his parental rights.

Subsequently, petitioner moved for entry of the termination order based on respondent-appellant's failure to comply with the *Adrianson* agreement. After a hearing, the trial court concluded that clear and convincing evidence had been presented that respondent-appellant violated the terms of the agreement. Specifically, he was convicted of a probation violation, he tested positive for marijuana and morphine, and he failed to maintain appropriate housing. Based on respondent-appellant's actions, the trial court entered an order terminating his parental rights.

Although not raised by either party, we note that a subsequent statutory amendment has called the continued validity of *Adrianson* agreements into serious question. After this Court issued its opinion in *Adrianson*, the Legislature amended MCL 712A.19b to provide that a trial court "shall order termination of parental rights," once it finds that the statutory grounds for termination exist, unless the children's best interests clearly indicate otherwise. MCL 712A.19b(5).²

In the present case, the trial court found that three statutory grounds for termination existed, and made no finding that termination was contrary to the children's best interests.³ On such facts, staying entry of the termination order for ninety days was inappropriate, given the requirements of MCL 712A.19b(5). Nevertheless, we conclude that the trial court correctly terminated respondent-appellant's parental rights. The record contains clear and convincing evidence that the statutory grounds for termination existed and that termination was not contrary to the children's best interests. We affirm the trial court's decision because it reached the correct result, albeit for the wrong reason.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Richard Allen Griffin
/s/ Michael R. Smolenski

¹ Respondent-appellant agreed to comply with all probation orders, attend counseling sessions and parenting classes, comply with drug screening, obtain a substance abuse assessment and treatment, and maintain appropriate housing, among other things.

² See 1994 PA 264.

³ Respondent-appellant does not challenge the trial court's factual findings regarding either the statutory grounds for termination or the children's best interests.