

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of B.F., J.F. and C.F., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARK FOREMAN,

Respondent-Appellant,

and

CHRISTIAN WAGNER,

Respondent.

UNPUBLISHED

May 24, 2002

No. 235472

Monroe Circuit Court

Family Division

LC No. 99-014612-NA

In the Matter of B.F., J.F. and C.F., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHRISTIAN WAGNER,

Respondent-Appellant,

and

MARK FOREMAN,

Respondent.

No. 235508

Monroe Circuit Court

Family Division

LC No. 99-014612-NA

Before: Murphy, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to the minor children under MCL 712A.19b(3)(b)(i), (b)(ii), (c)(i), (c)(ii), (g) and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not show that termination of respondents' parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Although the trial court failed to comply with MCR 5.971 before accepting respondents' admissions to certain allegations in the temporary custody petition involving respondents' fourth child, respondents did not raise this issue below and, therefore, it is not preserved. Moreover, appellate relief is not warranted on the basis of this unpreserved issue because it is apparent that respondents were not prejudiced by the noncompliance. *People v Carines*, 460 Mich 750, 752-753, 763; 597 NW2d 130 (1999). Respondents' admissions related only to their fourth child,¹ not the three children who are the subject of this appeal. Although respondents claim that their admissions that they missed counseling appointments were used against them to terminate their parental rights to the three older children, any error in this regard was harmless in light of the fact that petitioner presented undisputed testimony at the termination hearing that respondents had missed many counseling appointments during the first eight months the children were in care, and that respondents had begun missing counseling appointments again just prior to the termination hearing. Furthermore, respondents' parental rights were not terminated based on their failure to attend some of the counseling sessions. Termination was principally based on the fact that respondent father physically abused B.F. and continued to present a serious threat of physical harm to the children, and that respondent mother continued to remain unable to protect the children from respondent father.

Affirmed.

/s/ William B. Murphy

/s/ Kathleen Jansen

/s/ Kirsten Frank Kelly

¹ Unfortunately, the child died during the course of these proceedings.