

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NATHANIEL AARON
BREWER, NATALIE FAITH NICOLE TALLEY,
and KATLYNN TONDOLIA TALLEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHANE AARON TALLEY,

Respondent-Appellant,

and

ANTHONY DEWAYNE JACKSON,

Respondent.

In the Matter of NATHANIEL AARON BREWER,
NATALIE FAITH NICOLE TALLEY, SHANE
AARON TALLEY, JR., and KATLYNN
TONDOLIA TALLEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JENNIFER LYNN BREWER,

Respondent-Appellant.

UNPUBLISHED

May 13, 2004

No. 248534

Wayne Circuit Court

Family Division

LC No. 00-385468

No. 249690

Wayne Circuit Court

Family Division

LC No. 00-385468

Before: Saad, P.J., and Sawyer and Fort Hood, JJ.

MEMORANDUM.

In these consolidated appeals, respondents Shane Aaron Talley and Jennifer Lynn Brewer appeal as of right from the orders of the trial court terminating their parental rights to their minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm.

Respondents argue that termination was premature because the agency failed to provide them with services to assist them in reunification with their children. We disagree. Although the agency charged with the care of the children is required to report to the trial court the efforts made to rectify the conditions that led to the removal of the child, MCR 3.973(E)(2), services are not mandated in all situations. See *In re Terry*, 240 Mich App 14, 26 n 4; 610 NW2d 563 (2000). Respondent Talley was incarcerated during much of the time that the case was pending before the trial court, making it difficult for the agency to provide services. When not incarcerated, respondent Talley failed to take advantage of the services offered, failed to maintain contact with the agency, seldom visited the children, and was difficult to locate. Similarly, respondent Brewer, who was using drugs, neglected the children, had no verifiable source of income at the time of the adjudication, and failed to avail herself of the services offered until shortly before termination.

Respondent Talley also contends that the trial court impermissibly permitted the introduction of hearsay evidence regarding Katlynn, a child born during the pendency of the proceedings regarding the older children, during the adjudicative stage of the proceedings regarding her. A review of the record demonstrates that respondent Talley's parental rights to all of his children were terminated based upon his failure to comply with the agency's directives and his repeated incarceration, not upon hearsay testimony.

The trial court, therefore, did not err in finding that statutory grounds for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Similarly, termination of respondents' parental rights was not contrary to the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Henry William Saad

/s/ David H. Sawyer

/s/ Karen M. Fort Hood

¹ Although respondent Talley contends that the trial court also terminated his parental rights under MCL 712A.19b(3)(h), a review of the record indicates that the trial court declined to terminate his parental rights on this ground.