

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of LEVI DAMS, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DEANNA DAMS-NICKEL,

Respondent-Appellant.

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UNPUBLISHED  
February 17, 2005

No. 257162  
Dickinson Circuit Court  
Family Division  
LC No. 03-000515-NA

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

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

Respondent challenges only the trial court's findings under § 19b(3)(c). Her failure to argue that the trial court erred in concluding that the evidence supported the other statutory grounds waives any challenge to the other statutory grounds. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Only one statutory ground is required to terminate parental rights. *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000).

In any event, the trial court did not clearly err in finding that all the statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence established that respondent was a severe alcoholic, who had nearly died from alcohol-related medical issues during the spring before these proceedings and had charges for her second drunk driving offense pending against her at the time the initial petition in these proceedings was filed. Respondent admitted that she had been intoxicated in the child's presence and that he was afraid when she drank. She also admitted that she had driven while intoxicated with the child in the car and that she and her boyfriend had gotten into a physical altercation in front of the child, upsetting the child. Respondent had attempted treatment at various times during her lifetime. She completed inpatient substance abuse treatment at the initial stages of these proceedings before she was incarcerated for her second drunk driving offense. While in jail, respondent maintained her sobriety and attended weekly AA meetings. Compliance with the treatment plan is evidence of ability to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). However, immediately upon release from jail, respondent relapsed

into alcohol use and drank on at least two occasions. On one occasion, respondent was hospitalized when she drank so much alcohol that she vomited to the point of straining her abdominal muscles and on the other occasion she was arrested for violating her probation. At the time of the termination hearing, respondent was again incarcerated and would not be released for approximately six more months. Despite respondent's partial compliance with the treatment plan and her brief periods of sobriety while these proceedings were pending, considering the magnitude of her substance abuse issues, the trial court did not clearly err in finding that the statutory grounds were established. The evidence, in addition to the fact of respondent's incarceration, established that respondent would not be able to properly care for the child and that the child would likely be harmed if returned to respondent's home. Moreover, under the circumstances of this case, termination of respondent's parental rights was not premature as respondent argues on appeal. For the above reasons, the trial court did not clearly err in finding that respondent's parent rights should be terminated under §19b(3)(c)(i), (c)(ii), (g), and (j).

Respondent has also waived any challenge to the best interests issue by failing to argue it in her brief. *Yee, supra* at 406. However, considering the magnitude of respondent's substance abuse problem and her incarceration, the evidence did not show that termination of respondent's parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Michael J. Talbot  
/s/ William C. Whitbeck  
/s/ Kathleen Jansen