

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of NATHAN DURYEA, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT DURYEA,

Respondent-Appellant,

and

LORI HAYES,

Respondent.

UNPUBLISHED
September 8, 2000

No. 221193
Alger Circuit Court
Family Division
LC No. 00-003832-NA

Before: White, P.J., and Talbot and R.J. Danhof*, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the family court's order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (c)(ii), and (g); MSA 27.3178(598.19b)(3)(c)(i), (c)(ii), and (g). We affirm.

We are satisfied from our review of the record that the family court did not clearly err in finding that a statutory ground was established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions that led to respondent's adjudication were (1) his extensive history of alcohol abuse (2) his history of domestic violence against the mother (3) the fact that he allowed the mother, who had a significant history of neglectful behavior, to reside with him and the minor child and to have unsupervised contact with the child in direct violation of the court's order, and (3) his failure to sign information releases required by the court. At the time of

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

the termination hearing respondent's alcoholism was in remission and there was no indication of recent domestic abuse; however, the evidence established that respondent was intent upon clinging to his relationship with the mother even though it caused the child to be removed from his temporary custody. Despite the mother's serious record of neglect which eventually led to the termination of her parental rights, respondent continued to live with her until September 1998, continued to have daily contact with her during his own termination hearing, and allowed the minor child to have indirect contact with her. Respondent also failed to sign the information releases required by the court.

There was also evidence that respondent could not be an effective parent due to his personality disorder unless he cooperated in therapy and learned to change his attitude and the way he dealt with others; that respondent had refused to cooperate; and that the minor child was doing well in foster care, but developed problems (severe enough to require therapy) following overnight visits and telephone calls from respondent. In light of respondent's failure to abide by other court orders as well as testimony establishing that he was resistant to change and that there was no reasonable likelihood that change would occur in the foreseeable future, termination was warranted pursuant to § 19b(3)(c)(i) and (g). Because only one statutory ground is required in order to terminate parental rights, we need not decide whether termination was also warranted under § 19b(3)(c)(ii). MCL 712A.19b(3); MSA 27.3178(598.19b)(3); *In re Trejo*, ___ Mich ___; ___ NW2d ___ (Docket No. 112528, issued 7/5/00), slip op p 21-22. Furthermore, there is not clear evidence, on the whole record, that termination was not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, *supra* at 12-14.

Respondent also argues that reversal is required because he was not advised on the record of his right to a jury trial at the adjudicatory stage of the proceedings. We disagree. Although respondent was not advised on the record of his right to a jury trial, MCR 5.965(B)(6), the trial summons served on respondent and his attorney contained language advising him of his right to a jury trial, and respondent concedes that he received similar summonses throughout the proceedings. Respondent was also well represented by counsel and never objected at the adjudicatory stage to proceeding without a jury. Nor did he raise the issue at any of the subsequent dispositional hearings in the trial court. *Adam v Sylvan Glynn Golf Course*, 197 Mich App 95, 98; 494 NW2d 791 (1992) (an issue not raised before and considered by the trial court is not preserved for appellate review). Moreover, where there is no indication on this record, and respondent has not argued, that he was prejudiced by the alleged error, we conclude that reversal of the termination decision is not warranted on this basis. See *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000), applying *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); see also *In re Jackson*, 199 Mich App 22, 29; 501 NW2d 182 (1993); *In re Vasquez*, 199 Mich App 44, 48; 501 NW2d 231 (1993); *In re Hall*, 188 Mich App 217, 223; 467 NW2d 56 (1991).

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Robert J. Danhof