

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A.B.P., C.P. and B.P., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EILEEN MORELAND,

Respondent-Appellant,

and

GUS BENTLEY III and AL PERKINS,

Respondents.

UNPUBLISHED

January 24, 2003

No. 240133

Wayne Circuit Court

Family Division

LC No. 01-403059

Before: Cooper, P.J., and Bandstra and Talbot, JJ.

MEMORANDUM.

Respondent Moreland appeals as of right from a circuit court order of disposition assuming jurisdiction over the minor children pursuant to MCL 712A.2(b)(1) and (2). We affirm.

The trial court did not clearly err in finding that petitioner had established a statutory basis for jurisdiction by a preponderance of the evidence. *In re Brock*, 442 Mich 101, 108-109; 499 NW2d 752 (1993); MCR 5.972(C)(1). The evidence showed that respondent's home was extremely cluttered, dirty, and foul-smelling, and lacked sufficient food for even one meal. The evidence further showed that during the 2000-2001 school year, the children had very poor school attendance. They never attended more than two consecutive full days of school a week, and the rest of the time, they were either absent or two hours late. The children stopped attending school altogether in April 2001. Although respondent testified that she was home schooling the children, she only began that in May 2001 and failed to show that her home program constituted an education as defined by MCL 712A.2(b)(1)(A). Therefore, the trial court properly assumed jurisdiction. MCL 712A.2(b).

Respondent contends that the trial court erred in admitting evidence of a prior child cruelty conviction, asserting that such evidence was inadmissible under MRE 404(b)(1). Because respondent failed to specify the same ground for the objection as raised on appeal, the issue has not been preserved. *Westland v Okopski*, 208 Mich App 66, 72; 527 NW2d 780 (1994). Unpreserved evidentiary issues are reviewed for plain error affecting a party's substantial rights. *Hilgendorf v St John Hosp & Med Ctr Corp*, 245 Mich App 670, 700; 630 NW2d 356 (2001). Even assuming the evidence were inadmissible, reversal is unnecessary because the court did not rely on the child cruelty conviction in determining that it had jurisdiction over the children. *In re Hamlet (After Remand)*, 225 Mich App 505, 520; 571 NW2d 750 (1997), overruled in part on other grounds by *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

Affirmed.

/s/ Jessica R. Cooper
/s/ Richard A. Bandstra
/s/ Michael J. Talbot