

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of T.J.R, L.R., J.M.R., S.R.R., and
J.L.R., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LOUIS C. ROBERTS, JR.,

Respondent-Appellant,

and

ALICE M. THATCHER,

Respondent-Not Participating.

In the Matter of T.J.R, L.R., J.M.R., S.R.R., and
J.L.R., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ALICE M. THATCHER, a/k/a ALICE M.
ROBERTS,

Respondent-Appellant,

and

LOUIS C. ROBERTS, JR.,

UNPUBLISHED

March 11, 2003

No. 242684

Muskegon Circuit Court

Family Division

LC No. 99-027046-NA

No. 243725

Muskegon Circuit Court

Family Division

LC No. 99-027046-NA

Respondent-Not Participating.

Before: Whitbeck, C.J., and Cavanagh and Bandstra, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

DOCKET NO. 242684

Respondent Louis Roberts, Jr. ("respondent Roberts") gives only cursory consideration to his claim that the statutory grounds for termination were not proven; therefore, we need not address this issue. See *Eldred v Ziny*, 246 Mich App 142, 150; 631 NW2d 748 (2001). However, even if we considered this issue appellate relief would not be warranted. The trial court was entitled to apprise itself of all relevant considerations, *In re Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993), including the evidence presented at the hearing on June 20, 2002, and all prior hearings in the matter. *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973). In light of the evidence of respondent Roberts' continued drug use and history of relapses following treatment, along with his failure to maintain employment or stable housing during the three year period the children were in foster care, the trial court did not clearly err in finding that the statutory grounds for terminating his parental rights were established by clear and convincing evidence. See MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Further, we find no clear error in the trial court's decision regarding the children's best interests. See MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). Indeed, the trial court went beyond the inquiry required by § 19b(5) in finding, in an affirmative sense, that it was in the children's best interests that respondent Roberts' parental rights be terminated. See *id.* at 357. Considering the evidence that the children had been in foster care for three years, the trial court's assessment of the children's best interests was not clearly erroneous. See *id.*

Respondent Roberts' challenge to the trial court's post-termination order denying rehearing is given only cursory consideration and lacks citation to supporting authority; accordingly, we need not consider the issue. See *Eldred*, *supra*. It is apparent, however, that the trial court lacked authority to grant respondent's motion to set aside the "default" because respondent had already filed this appeal. MCR 7.208(A).¹ Even if the trial court had authority to consider the motion, we would not reverse. Although petitioner moved for a "default" at the hearing of June 20, 2002, the court rules governing termination of parental rights do not provide for a "default" procedure. See MCR 5.901 and 5.974. Rather, pursuant to MCR 5.974(G)(3), an "order terminating parental rights under the juvenile code may not be entered unless the court

¹ We note that this Court previously reached this same conclusion when dismissing respondent's prior appeal from the denial of his motion in Docket No. 244129.

makes findings of fact, states its conclusions of law, and includes the statutory basis for the order.” Here, notwithstanding the terminology used at the hearing of June 20, 2002, the record reflects that the trial court substantively complied with MCR 5.974(G). Thus, the pertinent inquiry for purposes of considering respondent Roberts’ post-termination motion is whether respondent established grounds for a rehearing under MCR 5.992(A). “A motion will not be considered unless it presents a matter not previously presented to the court, or presented but not previously considered by the court, which, if true, would cause the court to reconsider the case.” MCR 5.992(A). The trial court’s decision following the August 15, 2002, evidentiary hearing on the post-termination motions reflects that the court did not hear any testimony that would have caused it to reconsider its decision to terminate parental rights. We find no abuse of discretion in the trial court’s decision to deny rehearing. See *In re Toler*, 193 Mich App 474, 478; 484 NW2d 672 (1992).

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The record supports the trial court’s determination that respondent Alice Thatcher, a/k/a Alice Roberts (hereafter “respondent Thatcher”), although sincere in her desire to parent the children, lacked the ability to do so. Considering the evidence that respondent left the Rescue Mission’s discipleship program and was once again residing with respondent Roberts, as well as other relevant circumstances, we are not persuaded that the trial court clearly erred in finding that the statutory grounds for terminating her parental rights were established by clear and convincing evidence. See MCR 5.974(I); *In re Sours*, *supra*. Further, considering the length of time the children had been in foster care, the trial court’s assessment of the children’s best interests did not constitute clear error. See *In re Trejo*, *supra* at 364.

Finally, respondent Thatcher’s challenge to the trial court’s post-termination order is deficient because it lacks citation to supporting authority. Accordingly, we need not consider it. See *Eldred*, *supra*. In any event, because it is apparent from the trial court’s decision that it did not hear any testimony at the August 15, 2002, evidentiary hearing that would have caused it to reconsider its decision, this issue does not warrant appellate relief. Respondent has not demonstrated that the court abused its discretion. See MCR 5.992(A); *In re Toler*, *supra*.

Affirmed.

/s/ William C. Whitbeck
/s/ Mark J. Cavanagh
/s/ Richard A. Bandstra