

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of AMBER NICOLE WRIGHT,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PEGGY SEBRING,

Respondent-Appellant,

and

DAVID L. SEBRING, JR.,

Respondent.

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UNPUBLISHED

October 21, 2003

No. 247289

Calhoun Circuit Court

Family Division

LC No. 00-001907-NA

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID L. SEBRING, JR.,

Respondent-Appellant,

and

PEGGY SEBRING,

Respondent.

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No. 247300

Calhoun Circuit Court

Family Division

LC No. 00-001907-NA

Before: Donofrio, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the trial court order terminating their parental rights to their minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). Respondent mother also appeals the trial court's decision terminating her parental rights pursuant to section 19b(3)(m). We affirm.

After reviewing the record, we are satisfied that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The issues that brought the child under the court's jurisdiction included substance abuse, domestic violence, the inability to maintain suitable housing, deplorable living conditions, money management issues, criminal conduct, and chronic instability. Most of these issues continued to exist at the termination proceedings. Indeed, testimony and evidence presented at trial well demonstrated that both respondents abused controlled substances. Respondent mother was addicted to narcotics while respondent father abused marijuana and alcohol. To overcome her addiction to painkillers and other opiates, respondent mother entered a methadone treatment program where she received shots of methadone in an effort to control the withdrawal symptoms upon detoxification from the narcotics. Expert testimony adduced at trial indicated that methadone merely substitutes one addiction for another and that, while some patients may eventually lead a drug-free life after treatment; some remain addicted indefinitely. Quite telling, however, was testimony indicating that during the termination trial respondent mother submitted a drug screen that tested positive for marijuana. Indeed, respondent mother admitted to consuming marijuana with friends, which gave rise to the positive screen, but proclaimed that after that incident she quit entirely. Similarly, during the termination trial, respondent father also submitted a sample that ultimately resulted in a marijuana-positive screen. However, despite the test results, respondent father maintained that he quit using drugs. Further, respondent father also admitted that he was a "serious drinker" and, at the pinnacle of his addiction, he consumed two fifths of whisky per day. To excise his addiction to alcohol, respondent father testified that, weather permitting; he attended AA meetings only when he felt the compulsion to consume alcohol.

Moreover, both respondents admitted that incidents of domestic violence occurred in their marriage, which resulted in respondent father's arrest and subsequent incarceration. In fact, respondent mother testified that the minor child witnessed some of these incidents. Indeed, respondent mother recognized and admitted that she was a "battered woman." However, while she admitted that respondent father committed acts of domestic violence upon her person, she nevertheless characterized him as her "best" husband. Astonishingly, respondent mother refused to admit that respondent father abused her, advising that he "never beat [her]." For purposes of clarification, respondent mother acknowledged "he's hit [her]," but "never totally beat [her.]" In light of this dynamic, the trial court ordered respondents to attend and complete domestic violence classes. Neither did so. Moreover, despite their tumultuous history, respondents

continued to see one another and unequivocally acknowledged their ultimate desire to move toward reconciliation.

With regard to housing, testimony adduced at trial established that respondent mother lived in a home where the minor child would not have her own room but would have to sleep with her mother in “one great big bed.” Indeed, the room in the house designated for the minor child was the back porch and used for storage purposes. Further, testimony established and the minor child herself advised that individuals not residing in the home remained over night, which made the child feel unsafe to the point where she did not want to sleep. Similarly, at the time of trial, respondent father did not have independent housing. Though respondents testified that they were “separated” and that respondent father lived with his mother, testimony established that respondent father spent much of his time with respondent mother in her home. Further, at the time of trial, respondent father was not employed but rather waiting to see if he would receive social security disability benefits as a result of his declining physical health. In the interim, however, he advised that he earned \$41 every two weeks delivering newspapers and that his mother supported him with her income from social security. This and other evidence established that the trial court did not err in terminating respondents’ parental rights under § 19b(3)(c)(i).

Testimony adduced during trial also demonstrated that both respondents failed to provide proper care and custody for their child. Further, their continued use of controlled substances, their failure to participate in and complete domestic violence and parenting classes, their stated desire to reconcile, and expert testimony that neither respondent could make significant changes within a year clearly support the trial court’s determination that there is no reasonable expectation that either parent would be able to provide proper care and custody within a reasonable time given the child’s mature age. The trial court thus did not err by terminating respondents’ respective parental rights to their child in accord with § 19b(3)(g).

In addition, considering the pervasive substance abuse, untreated issues of domestic violence, respondents’ ultimate desire to reconcile, and the child’s own unequivocal testimony that she does not feel safe in her parents’ home, there is a reasonable likelihood that, if returned to either parent, the child would suffer emotional harm. Accordingly, the trial court did not clearly err in its findings under MCL 821A.19b(3)(j).

With regard to § 19b(3)(m), respondent mother admitted that she voluntarily released her parental rights to her son Steven Wright in February 1988, pursuant to a child protective proceeding. The trial court recognized that the issues raised in the 1988 case were similar to the issues raised in the case at bar with respect to respondent mother and thus held that the termination was proper in accord with § 19b(3)(m). On appeal, however, respondent mother asserts, without elaboration, that termination of her parental rights pursuant to § 19b(3)(m) was clearly erroneous because that subsection was not in effect when she voluntarily relinquished her parental rights in the 1988 proceeding. Consequently, respondent mother argues that to apply that section would result in an ipso [sic] facto<sup>1</sup> application of law in contravention of both the federal and state constitutions. Because only one ground for termination must be established to terminate parental rights, MCL 712A.19b(3); *In re Trejo Minors*, 462 Mich 341, 355-356; 612

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<sup>1</sup> Considering the context in which respondent mother employs the word, we believe that the proper terminology would be “de facto” as opposed to “ipso facto” application of law.

NW2d 407 (2000), we need not address respondent mother's constitutional argument. Considering that the trial court's decision to terminate respondent mother's parental rights pursuant to §§ 19b(3)(c)(i), (g) and (j) was not clearly erroneous, we need not determine whether termination was proper under any additional statutory grounds. *Id.* Consequently, we find no error in this regard.

Further, we find that evidence did not demonstrate that termination of respondents' parental rights was against the best interests of the child. MCL 712A.19b(5); *Trejo, supra* at 356-357. While we do not quarrel with the contention that respondents love their child, thirteen-year-old Amber testified that she did not wish to return to the chaos and instability of her parents' home but rather preferred the stable, more nurturing environment created in her pre-adoptive foster home. Accordingly, we find that the trial court did not err in terminating respondents' respective parental rights.

Affirmed.

/s/ Pat M. Donofrio  
/s/ David H. Sawyer  
/s/ Peter D. O'Connell