

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

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In the Matter of SAMANTHA MARIE MILLION,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELENA ELIZABETH HAVILAND,

Respondent-Appellant,

and

ROBERT THOMAS NOBLE,

Respondent.

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In the Matter of SAMANTHA MARIE MILLION,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT NOBLE,

Respondent-Appellant,

and

ELENA ELIZABETH HAVILAND,

Respondent.

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UNPUBLISHED  
May 17, 2005

No. 258499  
Branch Circuit Court  
Family Division  
LC No. 03-002616

No. 258814  
Branch Circuit Court  
Family Division  
LC No. 03-002616

Before: Cooper, P.J., and Jansen and Hoekstra JJ.

PER CURIAM.

In these consolidated appeals, the respondent-mother, Elena Elizabeth Haviland, appeals as of right from the trial court order terminating her parental rights to her minor child, Samantha Marie Million, pursuant to MCL 712A.19b(3)(c)(i), (g), and (j) in Docket No. 258499. The respondent-father, Robert Thomas Noble, appeals as of right from the same order terminating his parental rights under MCL 712A.19b(3)(c)(i), (g), and (l) in Docket No. 258814. Both respondents contend that the petitioner, Family Independence Agency, (FIA) failed to prove the grounds for termination of their parental rights by clear and convincing evidence and that termination was not in Samantha's best interests. We affirm.

A trial court must terminate a party's parental rights when at least one statutory ground for termination has been established by clear and convincing evidence unless it is determined that termination is clearly not in the child's best interests.<sup>1</sup> We review the trial court's determination whether to terminate for clear error.<sup>2</sup> The subsections of MCL 712.19b(3) under which the respondents' parental rights were terminated provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

\* \* \*

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

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<sup>1</sup> MCR 3.977(G)(3); MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 352-353; 612 NW2d 407 (2000).

<sup>2</sup> *Trejo*, *supra* at 356-357; *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

(1) The parent's rights to another child were terminated as a result of proceedings under section (2)(b) of this chapter or a similar law of another state.<sup>[3]</sup>

Samantha was born following a relationship between the respondents. At the time of termination, Ms. Haviland was raising the child alone. The FIA became involved with Samantha in March 2003. Ms. Haviland entered into a safety plan with protective services in which she agreed not to leave Samantha alone with the individual that she was currently seeing, Alvin Bringman. Mr. Bringman pled guilty to one count of second-degree criminal sexual conduct involving a person less than thirteen; had been convicted of a second; and had served more than ten years in prison. In June of 2003, Ms. Haviland admitted to protective services she left Samantha at the beach with Mr. Bringman and two teenage girls while she went swimming in the lake. When she returned, she found Mr. Bringman and Samantha at the men's showers.<sup>4</sup> In July 2003, Samantha, who was then eighteen months old, was taken into the court's custody when Ms. Haviland reported that she was living and sleeping with Samantha in her van on Mr. Bringman's campsite. The FIA petition alleged that Ms. Haviland failed to follow the safety plan created to protect Samantha from Mr. Bringman and did not recognize Mr. Bringman as a risk to her child. A supplemental petition filed a few days later alleged that Mr. Noble's parental rights to another child were terminated in 1995.<sup>5</sup> FIA workers also expressed concerns regarding Mr. Noble's ability to parent Samantha in light of evidence of his intellectual limitations<sup>6</sup> and his limited parenting time before the filing of the petition.

A permanent custody petition was filed on July 12, 2004. At the termination hearing, evidence was presented that Ms. Haviland continued to have contact with Mr. Bringman after Samantha was taken into the court's custody. This contact continued even after the court expressly ordered Ms. Haviland in April 2004, not to have any physical or verbal contact with Mr. Bringman.<sup>7</sup> Although Ms. Haviland's relationship with Mr. Bringman was the FIA's primary concern, there was also evidence that Ms. Haviland often waited for a worker to initiate play with Samantha during visits. Beginning in June 2004, Samantha would become upset during these visits and hide from her mother, who would get frustrated and not know how to respond. The evidence also revealed that Ms. Haviland had maintained housing for nearly nine months, was employed, and was participating in and benefiting from counseling.

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<sup>3</sup> MCL 712A.19b(3).

<sup>4</sup> Samantha was examined by medical professionals, but there was no evidence that she had been harmed during the incident.

<sup>5</sup> Mr. Noble testified that he voluntarily released his parental rights to the other child. However, he also indicated that the previous termination was also the result of a termination hearing.

<sup>6</sup> A psychological evaluation revealed that Mr. Noble's IQ was in the low-average range. Mr. Noble also had trouble with relationships.

<sup>7</sup> FIA workers saw Ms. Haviland and Mr. Bringman leaving his home together and saw the two eating at Bob Evans. Mr. Bringman once answered the door at Ms. Haviland's home. When Ms. Haviland came to the door, it was apparent that she had been sleeping. Furthermore, a man who "sounded like" Mr. Bringman frequently answered Ms. Haviland's phone.

From October 2003 to January 2004, Mr. Noble had supervised visitation with Samantha for an hour each week. Subsequently, he began participating with Samantha in a playgroup setting. In April 2004, the court allowed Mr. Noble to take Samantha home for an hour after playgroups. Mr. Noble was provided parenting instruction and received all available in-home services. These services were terminated, however, due to funding issues. Evidence was presented that Mr. Noble loved and cared for Samantha and that his behavior was appropriate. However, the caseworker observed that Mr. Noble could not remember parenting advice to implement at a later time. There were also concerns that Mr. Noble could not problem-solve on his own and that he did not show good judgment.<sup>8</sup> Beginning in June 2004, Samantha also refused to participate in playgroups and cried when she had to go home with Mr. Noble. Mr. Noble reported his frustration about dealing with Samantha to the caseworker.

Based on Ms. Haviland's continued involvement with Mr. Bringman, a convicted sexual offender, after Samantha was taken into the court's custody, the trial court did not clearly err in finding that the enumerated statutory grounds for termination of her parental rights were established by clear and convincing evidence. Samantha was placed in the court's custody due to Ms. Haviland's failure to protect her child from the risk posed by Mr. Bringman. Ms. Haviland's improvement in counseling and ability to secure housing and employment are insufficient to establish that termination was contrary to Samantha's best interests in light of this relationship. Ms. Haviland stated that she would ask Mr. Bringman to leave her alone if Samantha were returned to her care and that she believed that he would honor that request. However, she admitted that she had yet to sever her ties to Mr. Bringman. Accordingly, the trial court did not clearly err in terminating Ms. Haviland's parental rights.

The evidence also supports the termination of Mr. Noble's parental rights. Mr. Noble failed to show over the course of a year that he could independently parent Samantha. He was unable to form a bond with the child and establish that he could provide proper care. In fact, Mr. Noble reported more difficulties and higher levels of frustration the more time he spent with Samantha. Accordingly, grounds for termination were established under MCL 712A.19b(3)(c)(i) and (g). As at least one ground for termination was established by clear and convincing

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<sup>8</sup> Mr. Noble once allowed Samantha to play in a child's pool on a sixty-degree day and did not change her afterward. When Samantha became upset and refused to allow Mr. Noble to change her diaper, he would wait for her foster parent to arrive. Mr. Noble also indicated that, if Samantha was placed in his care, he wanted her current foster parent to come to his home on a daily basis to provide assistance in caring for Samantha.

evidence, we need not determine whether Mr. Noble's parental rights over Samantha were properly terminated based upon his potential voluntary relinquishment of rights over another child. Furthermore, Mr. Noble has not raised any argument that termination was otherwise contrary to Samantha's best interests.

Affirmed.

/s/ Jessica R. Cooper

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra