

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R.F., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EARL D. FISHER,

Respondent-Appellant,

and

LISA BENNETTI,

Respondent.

UNPUBLISHED

April 15, 2003

No. 242688

Washtenaw Circuit Court

Family Division

LC No. 01-025147-NA

In the Matter of R.F., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LISA BENNETTI,

Respondent-Appellant,

and

EARL D. FISHER,

Respondent.

No. 243221

LC No. 01-025147-NA

Before: Jansen, P.J., and Kelly and Fort Hood, JJ.

MEMORANDUM.

In these consolidated appeals, respondent Earl Fisher appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (j). Respondent Lisa Bennetti appeals as of right from the same trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(g), (i), (j), and (l). In both cases, we affirm. This case is being decided without oral argument pursuant to MCR 7.214(A) and (E)(1)(b).

The minor child R.F. was removed after the child was injured during a domestic altercation between respondents that occurred in December 2001. The child was approximately four months old at the time of the incident. Petitioner had investigated respondents when R.F. was born, but, at that time, did not substantiate the matter and did not file a petition. Respondents both admitted that they were intoxicated during the December 2001 incident, and both admitted that they had lengthy substance abuse histories that “grossly affected” their ability to properly parent. In addition, respondent Lisa Bennetti admitted that she was the mother of four other children, none of whom were in her care and custody. Her parental rights to an older daughter had been previously terminated in juvenile court proceedings.

On appeal, respondent Earl Fisher challenges the sufficiency of the evidence establishing the statutory grounds. Contrary to Fisher’s argument, the record clearly indicates that the parties stipulated that the statutory grounds for termination had been met and agreed that a hearing would be held solely addressing the best interests of the child. Accordingly, the trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. 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, the evidence did not show that termination of Fisher’s parental rights was clearly not in the child’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating Fisher’s parental rights to the child.

Respondent Lisa Bennetti first argues the trial court improperly assumed jurisdiction over the child. Bennetti’s admissions to the amended petition, which alleged neglect and drunkenness, were sufficient for the trial court to assume jurisdiction over the child. *In re Hatcher*, 443 Mich 426, 437; 505 NW2d 834 (1993). Bennetti also challenges the sufficiency of the evidence establishing the statutory grounds. As explained above, the parties stipulated that the statutory grounds were established. Bennetti does not challenge the trial court’s determination regarding the child’s best interests. In any event, the evidence did not show that termination of Bennetti’s parental rights was clearly not in the child’s best interests. MCL 712A.19b(5); *In re Trejo, supra*, 462 Mich 356-357. Bennetti attempts to raise a constitutional argument regarding the termination of her parental rights, which was not raised in the trial court. We have reviewed this issue and find no plain error requiring reversal. *People v. Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). Finally, Bennetti’s argument that the trial court

could not consider her past history because petitioner did not initiate child protection proceedings when it investigated the matter around the time of R.F.'s birth is without merit.

Affirmed.

/s/ Kathleen Jansen

/s/ Kirsten Frank Kelly

/s/ Karen M. Fort Hood