

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

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In the Matter of CODIE LEE MITCHELL and  
JAIDE ASIA'ANN MITCHELL, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAWN LYNN MITCHELL,

Respondent-Appellant,

and

ANTHONY JOSEPH ESSA,

Respondent.

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JAIDE ASIA'ANN MITCHELL, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANTHONY JOSEPH ESSA,

Respondent-Appellant,

and

DAWN LYNN MITCHELL,

Respondent.

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UNPUBLISHED  
June 26, 2003

No. 243091  
Wayne Circuit Court  
Family Division  
LC No. 97-360149

No. 243116  
Wayne Circuit Court  
Family Division  
LC No. 97-360149

Before: Sawyer, P.J., and Meter and Schuette, JJ.

MEMORANDUM.

Respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), (i), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(A) and (E)(1)(b).

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). However, no evidence was presented regarding MCL 712A.19b(3)(i), and the trial court should not have relied on that subsection as a basis for termination. The evidence showed that respondents had abused drugs for many years, and that respondent father had been jailed for domestic violence against respondent mother several times over the years. Since 1997, services provided in prior child protective proceedings or as conditions of probation had not remedied respondents' drug abuse and violence issues. Respondents were also unable to rectify these issues during the course of this proceeding, and it was clear that they would not be able to provide proper care or custody of the children within a reasonable time and that the children would be harmed if returned to their care.

Further, clear and convincing evidence showed that petitioner made reasonable attempts to reunify the family. *In re Miller, supra*. The evidence did not support respondents' claims that petitioner inadequately serviced them or that the services provided were ineffective and inadequate. Respondents, although not suffering from physical or mental impairment, needed help in rectifying their issues, but had received services in the past to no avail and did not put forth sufficient effort to participate in services during the current proceeding. No one was able to make respondents appropriate parents except respondents themselves.

The trial court did not abuse its discretion in admitting respondents' drug screen reports without allowing respondent mother an opportunity to cross-examine the preparer. MCR 3.977(G)(2). Admission of evidence is within the trial court's discretion. *People v Smith*, 456 Mich 543, 549-550; 581 NW2d 654 (1998). The report had little probative value in light of respondent mother's testimony at the termination hearing that she still used cocaine, and the preparer was not readily available for cross examination. Therefore, the trial court properly admitted the report.

Finally, respondents both requested judicial review of the referee's recommendation that their parental rights be terminated. Judicial review was not conducted on the specific grounds raised by respondents in their motions for review because the termination order had already been signed by a substituting judge prior to respondents filing their motions. MCR 5.991. However, review of the issues raised by respondents in their motions was effectuated by this appeal, and remand on this ground is not warranted.

Affirmed.

/s/ David H. Sawyer  
/s/ Patrick M. Meter  
/s/ Bill Schuette