

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SAMANTHA NICOLE
CLIFFORD and ZACHARY WILLIAM
CLIFFORD, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TERESA JO CLIFFORD,

Respondent-Appellant,

and

DENNIS CLIFFORD,

Respondent.

In the Matter of SAMANTHA NICOLE
CLIFFORD and ZACHARY WILLIAM
CLIFFORD, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENNIS CLIFFORD,

Respondent-Appellant,

and

TERESA JO CLIFFORD,

UNPUBLISHED

May 11, 2006

No. 266520

St. Joseph Circuit Court

Family Division

LC No. 04-000869-NA

No. 266606

LC No. 04-000869-NA

Respondent.

Before: White, P.J., and Fitzgerald and Talbot, JJ.

WHITE, P.J. (*concurring in part and dissenting in part*).

I agree with the majority's disposition regarding respondent-father.

Regarding respondent-mother, I respectfully dissent because I do not agree with the majority that respondent-mother's due process rights were satisfied where the petition listed none of the three statutory provisions under which the trial court terminated her parental rights. Respondent-mother was not given adequate notice that she would have to defend on the statutory grounds found in MCL 712A.19b3(c)(i), (g) and (j). Thus, I conclude that the trial court erred in relying on these grounds. *In re Perry*, 193 Mich App 648, 651; 484 NW2d 768 (1992). The error was not harmless, because the court found that the only statutory ground for termination listed in the petition, MCL 712A.19b3(h), was not established by clear and convincing evidence.

The case the majority relies on, *In re Slis*, 144 Mich App 678; 375 NW2d 788 (1985), involved a petition that "did not include the respondent's name and did not cite the specific statutory bases". This Court held that the respondent's rights to due process were not violated, where the petition was amended to contain her name and, regarding the statutory bases, this Court stated:

While the specific statutory bases were not cited, the petition was for neglect. It listed with specificity all the allegations of neglect against respondent. These defects, in our opinion, were technical and they did not erode the fact of the actual notice. [144 Mich App at 678.]

In the instant case, in contrast, the petition's only factual allegation concerned the mother's imprisonment, and the petition clearly cited subsection 19b3(h) and largely quoted it. Thus, the petition in fact gave notice of that ground, and only that ground. *In re Slis, supra*, is not applicable.

/s/ Helene N. White