

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KENYA MARCOLE KANYE
CRENSHAW-ANDERSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

HIYWANICA DUNNING,

Respondent-Appellant,

and

KENYA CRENSHAW-ANDERSON,

Respondent.

UNPUBLISHED

July 25, 2006

No. 267545

Kalamazoo Circuit Court

Family Division

LC No. 92-000074-NA

Before: Neff, P.J., and Bandstra and Zahra, JJ.

MEMORANDUM.

Respondent-appellant Hiywanica Dunning appeals as of right from the order of the trial court terminating her parental rights to her minor child pursuant to MCL 712A.19b(3)(i). We affirm.

The trial court did not clearly err in finding that clear and convincing evidence supported termination of respondent-appellant's parental rights under MCL 712A.19b(3)(i). MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A review of the lower court record reveals that ample evidence existed from which the trial court could find that respondent-appellant's parental rights to a sibling of the child in question had been terminated due to serious and chronic neglect or physical or sexual abuse, and that prior attempts to rehabilitate respondent-appellant had been unsuccessful.

The record also supports the trial court's finding that termination was not contrary to the best interests of the child. MCL 712A.19b(5); *In re Trejo, Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Though respondent-appellant had made some progress toward complying with the parent agency treatment plan, respondent-appellant was still using illegal drugs and engaging in criminality shortly before the termination hearing.

We also reject respondent-appellant's argument that error requiring reversal arose from the agency's failure to file the petition seeking termination within 42 days of the permanency planning hearing, as directed by MCL 712A.19a(6) and MCR 3.976(E)(2). Though these sections direct the agency to file within 42 days of a permanency planning hearing in which a trial court determines that a petition seeking termination should be filed, these sections do not provide sanctions for failure to do so and we decline to impose one in this case. See *In re Jackson*, 199 Mich App 22, 28-29; 501 NW2d 182 (1993) and *In re Kirkwood*, 187 Mich App 542, 546; 468 NW2d 280 (1991).

We further reject respondent-appellant's contention that the trial court erred by admitting the testimony of respondent's counselor. Respondent-appellant signed a number of releases authorizing the counselor to release information to numerous people, expressly for the purpose of testimony and recommendation to the trial court.

We affirm.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra