

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRITTANY ROBBINS, TIFFANY
POWELL and JHONATHAN POWELL, Minors

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES S. POWELL,

Respondent-Appellant,

and

REBECCA JUNE POWELL,
a/k/a BECKY POWELL,

Respondent.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

REBECCA JUNE POWELL, a/k/a BECKY
POWELL,

Respondent-Appellant,

and

JAMES S. POWELL,

Respondent.

UNPUBLISHED

December 12, 1997

No. 201984

Bay Juvenile Court

LC No. 95-005471 NA

No. 201986

Bay Juvenile Court

LC No. 95-005471 NA

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

In these consolidated appeals as of right, respondents challenge the juvenile court order that terminated their parental rights to the minor children under MCL 712A.19b(3)(b)(i), (b)(ii), and (g); MSA 27.3178(598.19b)(3)(b)(i), (b)(ii), and (g). This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

The juvenile court did not abuse its discretion in admitting the children's out-of-court statements describing various sexual acts perpetrated against them. Even though there was no direct evidence that Jhonathan was subjected to sexual abuse, he qualifies as a child whose siblings were abused. The nature and totality of the circumstances surrounding the statements provide an adequate indicia of trustworthiness, and there is sufficient corroborative evidence of the acts to justify admission of the statements under MCR 5.972(C)(2). *In re Brimer*, 191 Mich App 401, 405; 478 NW2d 689 (1991).

The juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, respondents failed to present evidence showing that termination of parental rights was clearly not in the best interests of the children. *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Therefore, the juvenile court did not err in terminating respondents' parental rights. MCL 712.19b(5); MSA 27.3178(598.19b)(5). Contrary to what respondent Becky Powell argues, MCL 712.19b(5); MSA 27.3178(598.19b)(5) does not unconstitutionally shift the burden of proof from the government to the parent to show that termination is not in the child's best interests. *In re Hamlet*, ___ Mich App ___; ___ NW2d ___ (Docket No. 198096, issued 9/26/97), slip op at 8.

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra