

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JASMINE EVANS, JUSTINE
EVANS, and JAMIE HUGHES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner - Appellee,

v

JAMES EVANS,

Respondent - Appellant,

and

DELORES HUGHES,

Respondent.

UNPUBLISHED

August 4, 2000

No. 224188

Muskegon Juvenile Court

LC No. 98-026235-NA

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

MEMORANDUM.

Respondent-appellant appeals as of right from a juvenile court order terminating his parental rights to two minor children, Jasmine Evans and Justine Evans, pursuant to MCL 712A.19(b)(3)(a)(ii), (c)(i), (g) and (j); MSA 27.3178(598.19b)(3)(a)(ii), (c)(i), (g) and (j). We affirm.

The juvenile court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Respondent-appellant was imprisoned on a second-degree criminal sexual conduct conviction¹ during the adjudication of this case. He admitted he had not communicated with the children or

¹ Respondent-appellant was convicted in December 1995 as a result of conduct with his twelve-year-old niece.

provided any support during the more than one year the children were in foster care. Respondent-appellant also did not seek custody of the children during that period and, therefore, termination was proper pursuant to § 19b(3)(a)(ii). Respondent-appellant admitted to the allegations in the original petition that he was imprisoned and could not care for his children. At the time of the termination hearing, respondent-appellant was still imprisoned, with his earliest possible release date in September 2000. There was no indication respondent-appellant could care for the children for at least ten months from the date of the termination hearing and, therefore, the juvenile court did not clearly err in finding termination was proper pursuant to §§ 19b(3)(c)(i) and (g). Furthermore, given respondent-appellant's uncertain release from prison and his prior criminal sexual conduct with a young, female relative, the juvenile court did not clearly err in finding there was a reasonable likelihood the children would be harmed if placed in respondent-appellant's home. See § 19b(3)(j).

There is not clear evidence, on the whole record, that termination is not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, __ Mich __; __ NW2d __ (Docket No. 112528, issued 7/5/00), slip op pp 12-14. Accordingly, the trial court did not clearly err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Gary R. McDonald

/s/ Janet T. Neff

/s/ Brian K. Zahra