STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of TNRF, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARCUS MEXICOTT,

Respondent-Appellant.

UNPUBLISHED
January 26, 2001

No. 226994
Monroe Circuit Court
Family Division
LC No. 99-014049-NA

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (g), (h), and (n)(i); MSA 27.3178(598.19b)(3)(a)(ii), (g), (h), and (n)(i). We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

Based on our review of the record, we conclude that the family court did not err by excluding evidence during the adjudication of the child's paternal grandmother's ability to provide proper care and custody. Whether to admit or exclude evidence is entrusted to the family court's discretion.[1] This proposed testimony was irrelevant to respondent-appellant's efforts to provide proper care and custody for the child leading up to the adjudication because there was no evidence that the grandmother had legal authority over the child or was willing to care for the child before the petition was filed.[2] Thus, the family court properly concluded that the child came within its jurisdiction based on the evidence presented concerning respondent-appellant's personal failure to care for his child.

[1] *In re Miller*, 182 Mich App 70, 80; 451 NW2d 576 (1990).

[2] See *In re Systma*, 197 Mich App 453, 456-457; 495 NW2d 804 (1992).

* Circuit judge, sitting on the Court of Appeals by assignment.

Nor did the family court clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.[3] Respondent-appellant concedes that, due to his imprisonment, the statutory grounds were met. Further, the evidence did not show that termination of his parental rights was clearly not in the child's best interests.[4] The family court properly considered the child's need for permanency and the fact that she had not seen respondent-appellant or her grandmother, respondent-appellant's mother, since she was nine months old.

Affirmed.

/s/ Jane E. Markey
/s/ William C. Whitbeck
/s/ Jeffrey L. Martlew

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[3] MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

[4] MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, 462 Mich 341, 356-257; 612 NW2d 407 (2000).