

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JLG, JRM and JAM, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RICHARD MALONE,

Respondent-Appellant,

and

EVELYN MALONE,

Respondent.

UNPUBLISHED
November 2, 2001

No. 229294
St. Joseph Circuit Court
Family Division
LC No. 98-000222-NA

Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the family court order terminating his parental rights to the minor children under MCL 712A.19b(3)(a)(ii). We affirm.

Respondent-appellant does not contest the family court's finding that there was clear and convincing evidence that he abandoned his children for ninety-one or more days without seeking custody of them. In fact, he does not claim to want to care for his children. Accordingly, the family court did not err in finding sufficient evidence of a statutory ground, MCL 712A.19b(3)(a)(ii), to terminate his parental rights. See MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The family court, having found this adequate evidence, then properly considered whether terminating respondent-appellant's parental rights was in his children's best interests. MCR 5.974(E)(2). In doing so, the family court was not limited to considering only legally admissible evidence. MCR 5.974(F)(2). As a result, the family court did not err in taking into account a foster care worker's testimony about the possibility of placing the children with their paternal grandmother. In light of the record as a whole, the family court properly concluded that

terminating respondent-appellant's parental rights was not contrary to the children's best interests. See MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ William C. Whitbeck

/s/ Janet T. Neff

/s/ Joel P. Hoekstra