

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of J.K. and J.K., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TONIO JOHNSON,

Respondent-Appellant,

and

LYNETTE KOCHER,

Respondent.

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UNPUBLISHED  
November 2, 2001

No. 232584  
Kalamazoo Circuit Court  
Family Division  
LC No. 99-000148-NA

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker\*, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from a family court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (h) and (j). We affirm.

The trial court did not clearly err in finding that § 19b(3)(h) was established by clear and convincing evidence. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The evidence showed that respondent-appellant will be incarcerated until at least 2003. Although he asserts that he could provide proper care through his mother, he had not contacted her to establish her willingness to care for the children during his incarceration. Moreover, the evidence indicated that he had never provided financial assistance and had not maintained contact with the children during the months preceding the termination hearing.

Further, considering respondent-appellant's criminal history and present term of imprisonment, as well as the minimal contact between respondent-appellant and the children, the evidence did not show that termination of respondent-appellant's parental rights was clearly not

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

in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000.)

Affirmed.

/s/ Martin M. Doctoroff

/s/ Kurtis T. Wilder

/s/ Chad C. Schmucker