

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of J. A. I. and E. T. I., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID LEE IRVINE,

Respondent-Appellant,

and

MELINA CORRELL,

Respondent.

UNPUBLISHED

February 1, 2002

No. 232683

Oakland Circuit Court

Family Division

LC No. 99-627653-NA

Before: Cavanagh, P.J., and Neff and B. B. MacKenzie*, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the orders terminating his parental rights to the minor children. We affirm.

Respondent-appellant contends that the trial court clearly erred in finding sufficient evidence of statutory grounds for termination under MCL 712A.19b(3)(h). We disagree. The trial court found that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. Although the trial court's rulings¹ were brief, there is no question that he properly ruled that termination is justified because of respondent's incarceration, his failure to provide proper care of the children, and the lack of any reasonable

¹ The trial court addressed the issues twice, first at the jurisdiction/termination proceeding and then at the best interests proceeding.

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

likelihood that he will be able to do so within any reasonable time. *In re Perry*, 193 Mich App 648, 650; 484 NW2d 768 (1992).

This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Under this standard, the trial court's decision "must strike [the reviewing court] as more than just maybe or probably wrong." *Trejo, supra*, p 341 (quoting *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999)). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *Miller, supra*, p 337. This Court gives due regard to the trial court's unique ability to assess the witnesses' credibility. *Id.* Applying these standards of review to the present record, we find no error.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Janet T. Neff
/s/ Barbara B. MacKenzie