

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KHALID NASSER-AHMED  
BURCH, KHALIL MUSAD NASSER BURCH,  
and SALINA CHRISTINE BURCH, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JALAL SAEED,

Respondent-Appellant.

UNPUBLISHED  
March 1, 2002

No. 236132  
Branch Circuit Court  
Family Division  
LC No. 00-001641-NA

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Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Respondent Jalal Saeed appeals as of right the order terminating his parental rights to Khalid Nasser-Ahmed Burch. We affirm.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341, 350; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination clearly is not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

Parental rights may be terminated when

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age. [MCL 712A.19b(3)(g).]

The statute requires clear and convincing evidence of both a failure and an inability to provide proper care and custody. *In re Hulbert*, 186 Mich App 600, 605; 465 NW2d 36 (1990).

The trial court did not clearly err in terminating respondent's parental rights. The evidence showed that, because of respondent's hospitalization and incarcerations, he was not able to provide proper care for the child. Moreover, there was no showing that respondent's family was available to care for the child during his extended absences. There was no reasonable prospect that respondent would be able to provide proper care within a reasonable time, given the age of the child.

Affirmed.

/s/ Richard A. Bandstra

/s/ William B. Murphy

/s/ Christopher M. Murray