

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of D.S. and J.S., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

WILLIAM SITERLET,

Respondent-Appellant,

and

MELISSA CONNERS,

Respondent.

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UNPUBLISHED

July 2, 2002

No. 237659

St. Clair Circuit Court

Family Division

LC No. 00-000041

Before: Hood, P.J. and Saad and E. Thomas,\* JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating his parental rights to his children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j).<sup>1</sup> We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL

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<sup>1</sup> The trial court's order also terminated the parental rights of respondent Melissa Connors, the children's mother. Connors has not appealed the trial court's order.

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

712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

We hold the trial court did not clearly err in finding that petitioner established one or more statutory grounds for termination of respondent's parental rights. The children were taken into emergency custody based on neglect and lack of permanent housing. Respondent did not visit or provide any financial support for the children after that time. Respondent was incarcerated shortly after the children were taken into custody; however, the evidence showed that prior to his incarceration respondent made no effort to comply with the treatment plan that required him to maintain suitable housing and a legal source of income. After respondent was incarcerated he made no effort to investigate what services might be available to him until after petitioner sought termination of his parental rights.

The trial court did not base its decision to terminate respondent's parental rights solely on the fact that respondent was incarcerated. The trial court based its finding on the fact that respondent failed to provide proper care or custody for the children and that it was not reasonably likely that he would be able to do so within a reasonable time, i.e., after his release from prison. The trial court also based its decision on respondent's demonstrated lack of interest in complying with the treatment plan both prior to and during his incarceration. The trial court's finding was not clearly erroneous. *Sours, supra*.

The trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds of desertion, MCL 712A.19b(3)(a)(ii), that the conditions that led to adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time considering the children's ages, MCL 712A.19b(3)(c)(i), that respondent failed to provide proper care or custody and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), and that it was reasonably likely that the children would be harmed if returned to respondent's care, MCL 712A.19b(3)(j). The evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCR 5.974(I); *Trejo, supra*.

Affirmed.

/s/ Harold Hood  
/s/ Henry William Saad  
/s/ Edward M. Thomas