

STATE OF MICHIGAN
COURT OF APPEALS

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

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LESLIE ALLEN DEARTH,

Respondent-Appellant,

and

TAMMY DEARTH and ALLEN HARP,

Respondents.

UNPUBLISHED

September 17, 2002

No. 238925

Genesee Circuit Court

Family Division

LC No. 2000-112933-NA

Before: Whitbeck, C.J., and Sawyer and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating his parental rights to his children L.D. and J.D. pursuant to MCL 712A.19b(3)(n)(i).¹ We affirm.

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

¹ Respondent denied that he was the biological father of S.D. and D.H. No evidence contradicted this assertion. The trial court's order also terminated the parental rights of respondent Tammy Dearth, the mother of all the children, and respondent Allen Harp, the putative father of S.D. and D.H. Respondents Tammy Dearth and Harp have not appealed the order.

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 by clear and convincing evidence the existence of a statutory ground for the termination of respondent's parental rights. The undisputed evidence established that respondent had been convicted of assault with intent to commit criminal sexual conduct in the second degree, MCL 750.520g(2), and criminal sexual conduct in the third degree, MCL 750.520d. In each case the victim was a minor and a member of respondent's family. Respondent committed a second sexually assaultive offense notwithstanding the fact that he served a prison term for the first offense. Respondent acknowledged that as a condition of parole he would be prohibited from having contact with any child less than sixteen years of age.

The trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the ground that respondent had been convicted of a crime and that continuation of the parent-child relationship would be harmful to the children, MCL 712A.19b(3)(n)(i). The evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5).

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ Kirsten Frank Kelly