

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of K.M.S., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JUSTIN MICHAEL SPARKS,

Respondent-Appellant,

and

MELISSA SOWA,

Respondent.

UNPUBLISHED

October 29, 2002

No. 239476

Van Buren Circuit Court

Family Division

LC No. 01-013142

Before: Hoekstra, P.J., and Wilder and Zahra, JJ.

MEMORANDUM.

Respondent Sparks appeals as of right from a circuit court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(h). We affirm.

Although the trial court erred in concluding that respondent's incarceration would extend two years in the future, the error was harmless because petitioner presented clear and convincing evidence that termination was also warranted under MCL 712A.19b(3)(g). *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 768 (1992). Therefore, the trial court did not clearly err in terminating respondent's parental rights. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We reject respondent's argument that petitioner failed to make reasonable efforts to assist with reunification. Petitioner could not offer any services that would rectify respondent's incarceration. Respondent acknowledges this, but contends that the court should have continued temporary wardship and placed the child with his relatives. We disagree. If the court finds that it is within the best interest of the child to do so, it may terminate parental rights instead of placing the child with relatives. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999); *In re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991). Here, the trial court found that

termination was in the child's best interest and that finding was not clearly erroneous. *Trejo, supra.*

Affirmed.

/s/ Joel P. Hoekstra

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra