

STATE OF MICHIGAN  
COURT OF APPEALS

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IN THE MATTER OF L.M.G., E.S.G., and M.A.B.,  
Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellee,

v

DANIEL GUTIERREZ,  
  
Respondent-Appellant.

UNPUBLISHED  
December 13, 2002

No. 238920  
Wayne Circuit Court  
Family Division  
LC No. 00-387762

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Before: Owens, P.J., and Murphy and Cavanagh, JJ.

MEMORANDUM.

Respondent appeals as of right the termination of his parental rights to his children. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The petition for the termination of respondent's parental rights alleged that respondent failed to rectify conditions that led to the adjudication, MCL 712A.19b(3)(c)(i), failed to provide proper care and custody, MCL 712A.19b(3)(g), was imprisoned for such a period that the children would be deprived of a normal home for more than two years, MCL 712A.19b(3)(h), and there was a reasonable likelihood that the children would be harmed if returned to his home, MCL 712A.19b(3)(j).

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, 355; 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 is clearly not in the child's best interests. *Id.* at 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.* at 356.

There is clear and convincing evidence to support the termination of respondent's parental rights. Respondent was serving a twenty-nine-month to fifteen-year sentence for criminal sexual conduct involving a fourteen-year-old girl. Given the length of respondent's sentence, the nature of the crime, and his extensive criminal record there is no reasonable probability that he will be released soon enough to provide a normal home for the children within

a reasonable time. Respondent did not present a plan for caring for the children during or after his incarceration. There is no evidence that termination of respondent's parental rights would not be in the best interests of the children.

Affirmed.

/s/ Donald S. Owens

/s/ William B. Murphy

/s/ Mark J. Cavanagh