

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DANEISHA ATKINS,
RASHEED SYKES, JR., and RADEESHA
SYKES, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

WAYMON E. DAVIS, JR.,

Respondent-Appellant,

and

RASHEED SYKES, SR., and DALEESHA
LOCKETT,

Respondents.

UNPUBLISHED

March 16, 2004

No. 250279

Kalamazoo Circuit Court

Family Division

LC No. 99-000154-NA

Before: Griffin, P.J., and White and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the circuit court's order terminating his parental rights to his minor child, Daneisha, under MCL 712A.19b(3)(h). We affirm.

MCL 712A.19b(3)(h) provides:

The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no a reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633: 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The minor child was born approximately two weeks after respondent-appellant was incarcerated for a drug offense. From our review of the record, it appears that respondent-appellant never met the minor

child. At the termination of parental rights trial, the therapist for the minor child testified that the minor child did not know respondent-appellant, and as far as the child was concerned he did not exist. He testified that reunification would be difficult, and may be impossible and not fair to the minor child considering her age.

Respondent-appellant testified regarding his plans once he was released from prison and stated that he had been paroled with an out date approximately two months from the date of the trial. However, DOC records indicate respondent-appellant was not granted parole, and as of the date of this writing, remains imprisoned. Offender Tracking Information System (OTIS) <http://www.state.mi.us/mdoc>.

The trial court considered that respondent-appellant had been imprisoned for more than two years prior to the termination of parental rights trial as meeting the requirement that the child would be deprived of a normal home for a period exceeding two years. Assuming arguendo that this was error, it was harmless, given that defendant was not paroled in August 2003, as he maintained he would be, and remains imprisoned as of this writing.

Affirmed.

/s/ Richard Allen Griffin

/s/ Helene N. White

/s/ Pat M. Donofrio