

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of OLIVIA IRENE FITZSIMMONS,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SIDNEY LEE CALDWELL,

Respondent-Appellant,

and

LAURA FITZSIMMONS,

Respondent.

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UNPUBLISHED  
September 23, 2004

No. 254823  
Berrien Circuit Court  
Family Division  
LC No. 2002-000118-NA

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Respondent Sidney Lee Caldwell appeals as of right the termination of his parental rights. We affirm.

Under MCL 712A.19b(3), the petitioner seeking the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo*, 462 Mich 341; 612 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.

The petition alleged that respondent failed to provide proper care and custody and there was a reasonable likelihood of harm if the child were to be returned to his home. MCL 712A.19b(3) provides for termination when

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be

able to provide proper care and custody within a reasonable time considering the child's age.

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(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

There was clear and convincing evidence to support the termination of respondent's parental rights. Respondent never provided care for the child. The child had serious emotional problems, and respondent did not show any understanding of how to deal with her. He failed to cooperate with the caseworker, and showed no prospect of improvement. He had no contact with the child for most of her life, including a nine-month period in which this case was pending. Given the child's condition, and the total lack of a bond with respondent, there was clear and convincing evidence that she would likely suffer harm if placed in respondent's custody. There was no evidence that termination would not be in her best interests.

Affirmed.

/s/ Stephen L. Borrello  
/s/ Christopher M. Murray  
/s/ Karen M. Fort Hood