

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of JOHNATHAN MICHAEL  
GWYN, Minor.

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KATHLEEN LESLIE KALINOVIK,  
  
Petitioner-Appellee,

v

TRACY RAY GWYN,  
  
Respondent-Appellant.

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UNPUBLISHED  
December 16, 2004

No. 248220  
Ontonagon Circuit Court  
Family Division  
LC No. 02-001067-NA

AFTER REMAND

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In the Matter of PAIGE EMILY GWYN, Minor.

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KATHLEEN LESLIE KALINOVIK,  
  
Petitioner-Appellee,

v

TRACY RAY GWYN,  
  
Respondent-Appellant.

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No. 248221  
Ontonagon Circuit Court  
Family Division  
LC No. 02-001068-NA

Before: Smolenski, P.J., and Sawyer and Borrello, JJ.

MEMORANDUM.

Petitioner and respondent are the biological parents of the minor children. In 1998, respondent was convicted of sexually abusing one of the children, his son. Petitioner subsequently filed a petition to terminate respondent's parental rights and following a hearing, the court terminated respondent's parental rights. Respondent appealed as of right. This Court reversed and remanded the case for a new trial because the trial court failed to make findings regarding its jurisdiction over the children, failed to appoint a guardian ad litem for the children, and failed to articulate the statutory bases for its order of termination. *In re Gwyn*, unpublished opinion per curiam of the Court of Appeals, issued December 23, 2003 (Docket Nos. 248220 and

248221). We retained jurisdiction. On remand, the errors that necessitated reversal were corrected. Following hearings held on February 27, 2004, and October 14, 2004, the court once again terminated respondent's parental rights. We affirm.

Respondent was initially present at trial telephonically and informed the court that he did not wish to participate in or contest the evidence at the trial. After taking proofs, the trial court found clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii) (no contact for at least 91 days), (b)(i) (sexual abuse of child by parent), (g) (failure to provide proper care), and (j)<sup>1</sup> (risk of harm if child returned). It also found that termination was not clearly contrary to the best interests of the children.

After reviewing the evidence, we find that the trial court did not err in finding these statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence showed that respondent was convicted in May 1998 of taking indecent liberties with his minor son. Respondent had no had contact with his children after this date and never sought custody of them. Respondent was released from prison in April or May 2001, but was arrested a year later for the statutory rape of a fourteen year-old boy. Respondent was subsequently convicted in that case in September 2004 of two counts of criminal sexual conduct and is currently incarcerated in North Carolina for at least six years. Also, respondent has provided no financial assistance since at least mid-1999. Moreover, we find that the trial court did not clearly err in concluding that termination of respondent's parental rights was not clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Michael R. Smolenski  
/s/ David H. Sawyer  
/s/ Stephen L. Borrello

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<sup>1</sup> This was a basis for termination in regards to the minor son only.