

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ANTHONY RUDOLPH BURNS,  
LOGAN KEITH MANZER, and DESIRE MARIE  
MANZER, Minors.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
December 15, 2005

Petitioner-Appellee,

v

DANIEL W. BURNS,

Respondent-Appellant.

No. 264227  
Saginaw Circuit Court  
Family Division  
LC No. 02-028091-NA

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Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 632; 593 NW2d 520 (1999). Respondent entered a plea of admission in September 2003 that he was not able to provide care for the children at that time. The trial court denied a termination petition in June 2004, and services were provided to respondent. His participation in these services was inconsistent. Although he received positive reports about his visitations, it appeared that he had not benefited from his domestic violence classes given his inappropriate behavior against two workers from ARC Services. Petitioner filed another termination petition against respondent in March 2005. By the time of the termination trial in June 2005, more than 182 days had elapsed since the issuance of an initial dispositional order (a two-year time period was not required despite respondent's claim on appeal to the contrary), and respondent continued to be unable to provide for the children. Throughout the case, he never provided child support. Respondent was arrested and charged with being a felon in possession of a firearm and felony-firearm in November 2004; his trial on these charges was adjourned to September 2005, but he remained incarcerated at the time of the termination trial. After he was incarcerated, he obviously was not able to participate at all in any visitations or services. A PPO obtained by the children's caretaker against

respondent prevented him from telephoning the children, although he could have sent letters to them via the agency caseworker. Based on this evidence, the trial court did not clearly err in finding that respondent continued to be unable to provide care for the children at the time of the termination trial and also had failed in the past to provide proper care and custody for the children.

The evidence also showed that there was a reasonable likelihood that respondent would not be able to provide care within a reasonable time, given the ages of the children. It was unknown at the termination trial how long respondent would be imprisoned but, even if he were released soon, it would take several months before reunification of the children could even be considered. The agency caseworker testified it would take at least several months after respondent's release before the children could be returned to him. In the opinion of the CASA worker, respondent would never be able to take care of the children. And respondent's counselor, the witness most optimistic about respondent's prospects, said that it would take several months and maybe even two years before respondent would be able to take the children. Given this information, the trial court did not clearly err in finding that there was no reasonable likelihood that the adjudicating condition would be rectified within a reasonable time and that respondent would be able to provide proper care within a reasonable time, given the ages of the children.

Finally, the trial court did not clearly err in its determination regarding the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 353. The evidence clearly showed that the children were bonded to their maternal grandmother, with whom they had been placed for about two years. The evidence also showed that, although this grandmother clearly despised respondent, she was appropriate with the children. Although the oldest child may have shared a bond with respondent, he and the twins should not be made to wait indefinitely to see if respondent would ever be able to properly care for them. Furthermore, as the court noted in its discussion of the children's best interests, respondent's proffered placement with his brother was dependent upon the termination of respondent's parental rights since the brother was only willing to care for the children pursuant to a permanent arrangement. Therefore, termination of respondent's parental rights was not contrary to the children's best interests and would assist in the children's placement with either the children's grandmother or respondent's brother.

Affirmed.

/s/ Donald S. Owens  
/s/ Henry William Saad  
/s/ Karen M. Fort Hood