

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of THOMAS BURNS, JR., Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

THOMAS BURNS,

Respondent-Appellant.

UNPUBLISHED

December 23, 2008

No. 285622

Oakland Circuit Court

Family Division

LC No. 07-741487-NA

Before: Murray, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Respondent appeals by right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(l). We affirm. We are deciding this appeal without oral argument pursuant to MCR 7.214(E).

Although respondent asserts that the trial court erred in terminating his parental rights under MCL 712A.19b(3)(g) and (j), the record discloses that the court declined to terminate his parental rights under those grounds. Instead, the court relied solely on § 19b(3)(l) as the statutory basis for termination. Respondent admitted that his parental rights to another child were previously terminated in 2005, and evidence of the petition and termination order in that prior case was admitted at the hearing in this case. In light of this evidence, the trial court did not clearly err in finding that § 19b(3)(l) was established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Further, the evidence did not clearly show that termination of respondent's parental rights was not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000). The child was less than one year old; respondent had a history of criminal sexual conduct involving other children, and a psychologist who evaluated respondent concluded that he lacked insight into his behavior and was at a high risk of re-offending. Contrary to what respondent suggests, the trial court was not required to consider the statutory best interest factors of the child custody act, MCL 722.23(a) – (l). Those factors do not apply to child protection proceedings. *In re JS & SM*, 231 Mich App 92, 100; 585 NW2d 326 (1998), overruled in part on

other grounds in *In re Trejo, supra*. The trial court did not clearly err in terminating respondent's parental rights to the child. *In re Trejo, supra* at 356.

We affirm.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Kurtis T. Wilder