

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of KAIZEN ELIJAH GOMOLL,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL NATHAN FOUNTAIN,

Respondent-Appellant.

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UNPUBLISHED  
February 24, 2009

No. 287136  
Ingham Circuit Court  
Family Division  
LC No. 00-684171-NA

Before: Whitbeck, P.J., and O'Connell and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(g), (j), and (n)(i). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

On appeal, respondent argues that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours Minors*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). We review a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "A circuit court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). We give particular regard to the "special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." MCR 2.613(C).

Under MCL 712A.19b(3)(g), respondent's criminality and incarceration left the child without the stability of a normal home and make it impossible for respondent to provide proper care and custody for the child within a reasonable time. The trial court correctly found that respondent made himself unavailable to the child by way of his actions for an indeterminable amount of time. The record does not support respondent's contention that he will be paroled in

the near future. Further, parole, a manifestation of imprisonment, can lessen the parolee's likelihood of establishing a normal home for a child. A newly paroled prisoner must readjust to life in society at large by finding suitable housing and a legal source of income while attending to the reporting obligations, mobility restrictions, and other conditions of parole. Although respondent planned to live in his grandmother's home and believed that he had a job lined up after his release from prison, the quick establishment of a normal home for the child is hardly assured under those circumstances. Respondent did not provide evidence that he will be granted an early release, and he continues to be incarcerated. Further, his involvement in criminal activity undermines his assertions that he would be able to adequately care for himself, much less a young child. Thus, given the uncertainty of respondent's release date, there was no reasonable expectation that he would be able to provide proper care and custody for the child within a reasonable time. Because the trial court correctly determined that this statutory ground for termination was met, we need not consider whether termination was proper under MCL 712A.19b(3)(j) or (n)(i).

In addition, termination of respondent's parental rights was in the child's best interest because respondent has not been present for most of the child's life, and the record evidence does not indicate that a bond exists between respondent and the child. See MCL 712A.19b(5). It is not in the child's best interest to be reunited with a father who he does not know and who has never taken care of him. Respondent has not demonstrated that he can properly care for the child, whose special medical needs (breathing treatments and medication) require additional care and attention. It is not in the child's best interest to be reunited with a parent who has not demonstrated the ability to properly care for him. And, it is not in the child's best interest to wait for stability and permanence while respondent finishes his prison sentence and works toward achieving a proper home.

Affirmed.

/s/ William C. Whitbeck

/s/ Peter D. O'Connell

/s/ Donald S. Owens