

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ONTARIO GREGORY, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANTHONY GRAY,

Respondent-Appellant,

and

ANDREA GREGORY,

Respondent.

UNPUBLISHED

April 28, 2000

No. 221750

Kalamazoo Circuit Court

Family Division

LC No. 94-000068-NA

Before: Gribbs, P.J., and Doctoroff and T.L. Ludington*, JJ.

MEMORANDUM.

Respondent-appellant Anthony Gray appeals as of right from the family court order terminating his parental rights to the minor child under MCL 712A.19b(3)(h); MSA 27.3178(598.19b)(3)(h). We affirm.

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). According to the evidence, respondent-appellant was bound to be imprisoned for at least fifteen months from the date the court authorized the petition for termination, and, upon his release, would be residing in a year-long rehabilitation program. The evidence further showed that respondent-appellant had never provided care or custody for the child, and that, beyond good intentions, had neither plans nor the

* Circuit judge, sitting on the Court of Appeals by assignment.

means to do so within reasonable time after his release from prison. Thus the trial court properly concluded that respondent-appellant's period of imprisonment would deprive the child of a normal home for at least two years. MCL 712A.19b(3)(h); MSA 27.3178(598.19b)(3)(h).

Further, respondent-appellant does not contest the other elements of § 19b(3)(h)—that he had not provided proper care and custody for the child and was not reasonably likely to do so within a reasonable time considering the child's age. Because these latter elements by themselves satisfy § 19b(3)(g) as an independent basis for termination, which was expressly alleged in the amended petition, that provision affords an alternative basis for affirming the trial court. See *In re Perry*, 193 Mich App 648, 650-651; 484 NW2d 678 (1992).

Additionally, respondent-appellant does not argue, and the record does not show, that termination of his parental rights was "clearly not" in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith, supra* at 472-473.

Accordingly, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ Roman S. Gribbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington