

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ASHLI BAKER and VANESSA
BAKER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

FREDDIE BAKER, JR.,

Respondent-Appellant

and

ANTOINETTE BAKER,

Respondent.

UNPUBLISHED

May 12, 2000

No. 222498

Calhoun Circuit Court

Family Division

LC No. 93-000054-NA

Before: Fitzgerald, P.J., and Neff and Smolenski, JJ.

PER CURIAM.

Respondent-appellant appeals by right from a family court order terminating his parental rights to Ashli Baker and Vanessa Baker pursuant to MCL 712A.19b(3)(b)(i), (g), (h) and (j); MSA 27.3178(598.19b)(3)(b)(i), (g), (h) and (j). We affirm.

On April 5, 1999, respondent-appellant was sentenced to fifteen to twenty-five years' imprisonment for first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), perpetrated against his wife's minor daughter (the victim).¹ The trial court subsequently terminated respondent-appellant's parental rights with respect to Ashli and Vanessa pursuant to MCL 712A.19b(3)(b)(i), (g), (h) and (j); MSA 27.3178(598.19b)(3)(b)(i), (g), (h) and (j). On appeal, respondent-appellant contends that the trial court was clearly erroneous in terminating his parental rights. We disagree.

The trial court did not clearly err in finding that termination was established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j) authorizes the court to terminate parental rights if the court finds by clear and convincing evidence that “[t]here is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” Here, respondent-appellant was convicted of sexually assaulting the victim, a minor who was a member of his household. Although the victim was not respondent-appellant’s daughter, she considered herself as such, testifying that respondent-appellant was her “dad.” The victim further testified that respondent-appellant had sexual intercourse with her while she was sleeping in the same bed as Ashli and Vanessa. Evidence that respondent-appellant sexually abused the victim, a child living in his household, is probative of respondent-appellant’s treatment of his own children. See *In re Powers*, 208 Mich App 582, 584, 588-593; 528 NW2d 799 (1995) (evidence that the respondent abused his live-in girlfriend’s son is probative of the respondent’s treatment of his own child). The trial court properly found that, based on respondent-appellant’s criminal sexual conduct toward the victim, there is a reasonable likelihood that Ashli and Vanessa will be harmed if returned to respondent-appellant’s custody. MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j).

Respondent-appellant’s contention that he cannot harm Ashli and Vanessa because he will be incarcerated until they are adults is without merit.² The purpose of child protective proceedings is to protect the child. *In re Huisman*, 230 Mich App 372, 393; 584 NW2d 349 (1998). The fact that respondent-appellant is presently prevented from harming his children is irrelevant to the trial court’s determination of whether a reasonable likelihood exists that the children will be harmed if they are returned to respondent-appellant’s home. Because only one statutory ground for termination must be established in order to terminate parental rights, *id.* at 384-385, we need not address whether termination was also proper under MCL 712A.19b(3)(b)(i), (g) and (h); MSA 27.3178(598.19b)(3)(b)(i), (g) and (h).

Finally, respondent-appellant contends that termination of his parental rights is clearly not in the children’s best interests, noting that both Ashli and Vanessa expressed a desire to have him remain as their father and would experience additional anxiety if his parental rights were terminated. We disagree. Respondent-appellant has failed to show that termination was clearly not in the children’s best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997).

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Michael R. Smolenski

¹ *People of the State of Michigan v Freddie Baker*, Calhoun Circuit Case No. 98-001525-FC.

² The lower court record indicates that Ashli was born on March 3, 1990 and that Vanessa was born on May 24, 1994. On April 5, 1999, respondent-appellant received a minimum sentence of fifteen

years' imprisonment with credit for 213 days served, which would result in his release from prison on or about October 4, 2013. Both Ashli and Vanessa will attain eighteen years of age before that date.