

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Kenneth Danell Cannon, Jr., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LAWANDA SMITH,

Respondent,

and

KENNETH DANELL CANNON, SR.,

Respondent-Appellant.

UNPUBLISHED

May 30, 2000

No. 220555

Wayne Circuit Court

Family Division

LC No. 98-373619

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

MEMORANDUM.

Respondent Kenneth Cannon, Sr. appeals as of right the order terminating his parental rights. We affirm.

A petition for permanent custody was filed after respondent Lawanda Smith left the child in the care of a friend without making arrangements for support while she served a jail term. Respondent Cannon has been continually incarcerated since shortly after the child's birth. After a hearing, the referee found that there was clear and convincing evidence to terminate parental rights under MCL 712A.19(b)(3)(g), (h) and (j); MSA 27.3178(598.19b)(3)(g), (h) and (j), for failure to provide proper care, imprisonment, and a reasonable likelihood that the child would be harmed if returned to the parent. The referee found that it would be in the child's best interests to terminate parental rights.

On appeal from termination of parental rights proceedings, this Court reviews the family court's decision under the clearly erroneous standard. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). If permanent termination of parental rights is sought, the petitioner bears the burden of showing a statutory basis for termination by clear and convincing evidence. *In re Hamlet (After Remand)*, 225 Mich App 505, 522; 571 NW2d 750 (1997). Once a statutory ground for termination of parental rights is established, the court must terminate parental rights unless it finds that termination of the child's parental rights is clearly not in the child's best interest. MCL 712A.19b(5); MSA 27.3178(598.19b)(5), *In re Hall-Smith*, 222 Mich App 470, 472; 564 NW2d 156 (1997). The burden of going forward with evidence that termination is clearly not in the child's best interests rests with the respondent. *Id.*, 473.

There was clear and convincing evidence presented to support termination under each of the statutory sections. Respondent has been incarcerated for nearly his child's entire life. There is no evidence that he provided proper care and custody for his child. He made no arrangements for the child's care. It is likely that the child would be harmed if returned to the home of the parent.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra