

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ANGEL L. WOODBURY and
APRIL L. WOODBURY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID WOODBURY,

Respondent-Appellant,

and

MELODY YEAGER,

Respondent.

UNPUBLISHED

August 22, 2000

No. 221553

Mecosta Circuit Court

Family Division

LC No. 97-003156-NA

Before: White, P.J., and Talbot, and R. J. Danhof*, JJ.

MEMORANDUM.

Respondent-appellant (hereinafter "respondent") appeals by delayed leave granted from a family court order terminating his parental rights to the minor children under MCL 712A.19b(3)(b)(i), (h), (j) and (k)(ii); MSA 27.3178(598.19b)(3)(b)(i), (h), (j) and (k)(ii). We affirm.

While we agree with respondent that the family court could not properly terminate his parental rights under §§ 19b(3)(b)(i) or (k)(ii) solely on the basis of sexual abuse of children other than his own, *In re Powers*, 208 Mich App 582, 591-593; 528 NW2d 799 (1995), the family court also found that respondent had sexually abused one of his own daughters, and that finding is not clearly erroneous. Accordingly, the family court did not err in terminating respondent's parental rights to the children under §§ 19b(3)(b)(i) and (k)(ii). MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

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

Furthermore, the court could properly consider respondent's sexual abuse of other children in support of its determination that there was a reasonable likelihood that respondent's own children would be sexually abused or harmed if returned to respondent's care, thereby justifying termination under § 19b(3)(j). *In re Powers, supra*.

Further, in light of respondent's recent minimum seven-year prison sentence, the court did not clearly err in finding that termination was also appropriate under § 19b(3)(h). The evidence failed to show that there was a suitable relative who could care for the children while respondent served his prison term. Moreover, the evidence sufficiently established that respondent could not provide a normal home for his children upon his release from prison. Therefore, there was clear and convincing evidence to establish this statutory ground. *In re SD*, 236 Mich App 240, 247; 599 NW2d 772 (1999).

Finally, the evidence did not establish that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo*, ___ Mich ___; 612 NW2d 407 (Docket No. 112528, issued 7/5/00), slip op at 14, 17. Thus, the trial court did not err in terminating respondent's parental rights to the children. *Id.*, slip op at 17.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Robert J. Danhof