

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MEQ, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARTIN QUESADA,

Respondent-Appellant.

UNPUBLISHED

February 1, 2002

No. 235629

Ingham Circuit Court

Juvenile Division

LC No. 00-032550-NA

Before: Gage, P.J., and Hoekstra and Meter, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i). We affirm.

We conclude from a review of the record that the trial court did not clearly err in finding that the above-referenced subsection was established by clear and convincing evidence. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The record shows that respondent has a lengthy criminal history, was incarcerated when the child was born, was incarcerated during the pendency of the proceedings and would remain incarcerated for a number of years, first in state, then in federal prison. Concern arose that he would not be able to provide medical care for the child because he was on a restrictive tether when he was not incarcerated. Respondent could not fulfill his obligations toward reunification with his daughter while incarcerated nor maintain custody or care for the child. Moreover, the caseworker testified that she does not believe that there is any reasonable likelihood that the conditions leading to the original adjudication of jurisdiction will be rectified within a reasonable time, given the child's age. She further testified that because of his incarceration, there is no likelihood that in the reasonable future respondent would be able to provide medical care, food, clothing, or a home for the child, or provide care or custody of his child. Under these circumstances, we cannot conclude that the court clearly erred in finding clear and convincing evidence to terminate respondent's parental rights to the minor child.

Respondent also argues that termination of his parental rights was not in the child's best interest. Once a statutory ground for termination is established, parental rights must be terminated unless the court finds from evidence on the whole record that termination is clearly not in the child's best interest. MCL 712A.19b(5); *In re Trejo Minors, supra* at 354, 356-357. Here, the trial court affirmatively found that termination was in the child's best interest because she needed stability. Despite respondent's bond with his child and his "exceptional parenting skills," he is unavailable to care for his daughter. Respondent's argument that his parental rights should not have been terminated because she "was flourishing in her present environment" is a non sequitur and is unsupported by law. The trial court did not err in concluding that termination of respondent's parental rights was in the best interest of the child.

Affirmed.

/s/ Hilda R. Gage

/s/ Joel P. Hoekstra

/s/ Patrick M. Meter