

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CRYSTAL MICHELLE
OELBERG, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHRIS C. OELBERG,

Respondent-Appellant,

and

LISA DUPUIS,

Respondent.

UNPUBLISHED

March 1, 2002

No. 236137

Saginaw Circuit Court

Family Division

LC No. 91-021313-NA

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from an order terminating his parental rights to the minor child under MCL 712A.19b(3)(g), (h), and (j). We affirm.

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356; 612 NW2d 407 (2000). If the court determines that the petitioner has proven by clear and convincing evidence one or more of the statutory grounds for termination, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *Trejo, supra* at 351-354.

While we question the applicability of MCL 712A.19b(j) on these facts, the trial court did not clearly err in finding that petitioner established the existence of one or more grounds for termination by clear and convincing evidence. Respondent's incarceration left him unable to provide proper care or custody for the child. He admitted that he had no alternative placement options for the girl and could provide her virtually no support. It was undisputed that he would not be able to provide for her care and custody by the time she reached the age of majority, and

perhaps not until his maximum discharge date in 2029. MCL 712A.19b(3)(g) and (h). Termination of respondent's parental rights was therefore proper.

Respondent also argues that the trial court erred in determining that termination was in the child's best interests. We disagree. Contrary to respondent's argument, the evidence did not show that termination was clearly not in the best interests of the child. MCL 712A.19b(5); *Trejo, supra* at 356-357.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray