

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BLG and BLG, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARCIA RENEE TYLER,

Respondent-Appellant,

and

BRIAN GARNER,

Respondent.

UNPUBLISHED

March 15, 2002

No. 235505

Muskegon Circuit Court

Family Division

LC No. 00-028743-NA

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

MEMORANDUM.

Respondent-appellant Marcia Tyler appeals as of right the order terminating her parental rights to the minor children. We affirm.

A petition was filed alleging that the children's home was an unfit place for them to live due to physical abuse suffered at the hands of respondent-appellant, that respondent-appellant failed to provide proper care and custody, and that there was a reasonable likelihood that the children would be harmed if returned to the home of the parents. The court found that each of the statutory grounds was established by clear and convincing evidence, and that there was no evidence rebutting the presumption that termination of parental rights was in the children's best interests. On appeal, respondent-appellant argues that the court clearly erred in failing to find that the termination was clearly not in the children's best interests.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341, 350; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is

mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

Respondent-appellant has failed to identify any evidence that would support a showing that the termination was not in the children's best interests. Respondent-appellant had a continuing substance abuse problem, and was serving a prison sentence at the time of the hearing. She was imprisoned for a significant portion of the children's lives, and failed to provide proper care when she was not in prison. The court did not clearly err in terminating respondent-appellant's parental rights.

We affirm.

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