STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of L.M.T. and C.M.T., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

DAVID WENDELL TALLEY,

Respondent-Appellant.

UNPUBLISHED
July 9, 2002

No. 236064
Wayne Circuit Court
Family Division
LC No. 98-365355

Before: Hood, P.J., and Saad and E. M. Thomas,* JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating his parental rights to his children pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (h). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id*., 356-357.

We hold that the trial court did not clearly err in finding that petitioner established one or more statutory grounds for termination of respondent's parental rights. The children came under the jurisdiction of the court because respondent was incarcerated for a period exceeding two years and admittedly could not provide proper care for them.[1] These same circumstances existed at the time of the permanent custody hearing. The trial court did not clearly err in finding that

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[1] The children's mother is deceased.

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

termination of respondent's parental rights was warranted on the grounds that the conditions that led to adjudication continued to exist and there was no reasonable likelihood that the conditions would be rectified within a reasonable time, MCL 712A.19b(3)(c)(*i*), that respondent failed to provide proper care or custody and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), and that respondent was imprisoned for a period exceeding two years and the children would be deprived of a normal home for that time, MCL 712A.19b(3)(h). The evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCR 5.974(I); *Trejo*, *supra*.

Affirmed.

/s/ Harold Hood
/s/ Henry William Saad
/s/ Edward M. Thomas