

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of D.C., A.C., and S.C., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PHILLIP CARDELLA,

Respondent-Appellant,

and

KATHLEEN CARDELLA,

Respondent.

UNPUBLISHED

November 22, 2002

No. 240754

Chippewa Circuit Court

Family Division

LC No. 99-012257-NA

Before: Markey, P.J., and Saad and Smolenski, JJ.

MEMORANDUM.

Respondent Phillip Cardella appeals as of right the order terminating his parental rights to his three children. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

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*, 462 Mich 341; 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.

MCL 712A.19b(3) provides for termination of parental rights when

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

There is clear and convincing evidence to support the termination of respondent's parental rights. The evidence showed that respondent had an intractable drug problem of extensive duration that prevented him from providing proper care and custody of his children, and created a likelihood of harm to them. The trial court did not err in finding that the statutory grounds for termination were met. Although there was testimony that the children loved respondent, their best interests were not met by residing with him while he suffered from a substance abuse problem.

Affirmed.

/s/ Jane E. Markey

/s/ Henry William Saad

/s/ Michael R. Smolenski