

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of MICHAEL WAYNE MERCER,  
Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOEY JAMES MERCER,

Respondent-Appellant,

and

MICHELLE ZABLOCKI,

Respondent.

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UNPUBLISHED  
November 9, 2004

No. 255629  
St. Joseph Circuit Court  
Family Division  
LC No. 03-000237-NA

Before: Murray, P.J., and Sawyer and Smolenski, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (k)(ii), and (n)(i). We affirm.

Respondent-appellant pleaded guilty to first-degree criminal sexual conduct involving the minor child's half-sister. This activity took place over a period of some six or seven years and occurred in the home of the minor child while he was there. The minor child's half-sister was fourteen years old and pregnant with respondent-appellant's child when the matter came to the attention of petitioner. A friend of the minor child's half-sister, who was also a minor, testified that she observed this activity in the home and that respondent-appellant engaged in sexual conduct with her as well. A therapist for the minor child testified that the minor child exhibited behaviors that generally occur in a child who is traumatized, grew up in a very unhealthy family with unhealthy boundaries, and his safety was jeopardized. The therapist also testified that the minor child needed a stable and secure household that was highly structured with consistent caregivers, and that was not abusive or aggressive.

The trial court did not clearly err in determining that at least one statutory ground was proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407

(2000); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). Based on respondent-appellant's conduct, there is a reasonable likelihood that the minor child would suffer further psychological abuse if placed in respondent-appellant's custody. The fact that respondent-appellant is incarcerated and the minor child cannot be placed in his home is irrelevant. Moreover, respondent-appellant's argument that his relatives could care for the minor child is not a factor in determining whether the statutory grounds for termination are established. Respondent-appellant's arguments that the court could not terminate his parental rights based only on abuse to a child that was not his child, and his disagreement with well-established law that there is a presumption that how a parent treats one child is probative of how that parent may treat another child, are not persuasive.

With regard to the best interests factor, there is no evidence that a bond existed between the minor child and respondent-appellant. The evidence established that the minor child was being treated for behaviors consistent with the sexual abuse that went on in his home, and these behaviors were the direct result of respondent-appellant's actions. The minor child needed and deserved permanence and stability.

Affirmed.

/s/ Christopher M. Murray  
/s/ David H. Sawyer  
/s/ Michael R. Smolenski