

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of REBECCA LYNNE HART,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT NELSON HART, JR.,

Respondent-Appellant,

and

ANGELIA RANDALL, a/k/a ANGELIA ASAY,

Respondent.

UNPUBLISHED

December 14, 2004

No. 255883

Alpena Circuit Court

Family Division

LC No. 02-005499-NA

Before: Murphy, P.J., and White and Kelly, JJ.

MEMORANDUM.

Respondent-appellant Robert Nelson Hart, Jr., (respondent), appeals by delayed leave granted from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (m). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that the statutory grounds were established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence established that respondent had significant mental health issues, which required numerous hospital stays and psychotropic medications, and serious physical problems, which had led to many hospitalizations. Contrary to respondent's argument, the trial court appropriately relied upon a psychological evaluation of respondent that indicated he was unable to care for Rebecca because he was "so preoccupied with his own emotional needs and disabled physically." See *In re Johnson*, 142 Mich App 764, 766; 371 NW2d 446 (1985). Moreover, respondent was incarcerated at the time of the termination hearing for selling his prescription pain medication and would remain incarcerated for at least another year. Furthermore, it was undisputed that

respondent voluntarily relinquished his parental rights to another child in Utah after a termination petition had been filed.

With respect to the best interests issue, despite comments quoted by respondent, it is clear from the record that the trial court applied the appropriate standard and did not impermissibly place the burden of producing evidence on respondent. Further, although there was evidence that respondent and Rebecca were bonded, the evidence did not show that termination of respondent's parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Kirsten Frank Kelly